



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51 Private Housing
(Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

Chamber Ref: FTS/HPC/EV/24/3171

Property at 24 Cairnlea Gardens, Bellshill, ML4 2JR (“the Property”)

Parties:

Coatbridge Property Investments Limited, 40 Carlton Place, Glasgow (“the Applicant”)

Mr Declan Clarke, 24 Cairnlea Gardens, Bellshill, ML4 2JR (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant.

Background

1. The Applicant lodged an application for an eviction order in terms of Section 51 and Ground 12 of schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave, rent statement, section 11 notice and evidence of compliance with the rent arrears pre action protocol were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer and the parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 2 July 2025 at 2pm and that they were required to participate. Prior to the CMD the Applicant lodged an updated rent statement.

3. The CMD took place on 2 July 2025. The Applicant was represented by Ms Barclay. The Respondent did not participate. A related application under Chamber reference CV/25/3172 was also discussed.

Summary of Discussion at CMD

4. Ms Barclay told the Tribunal that the Respondent is still living at the property. She visited at the beginning of June 2025, and he told her that she would try to pay off the arrears before the CMD. However, he has only made one payment of £400 on 16 June 2025. As a further instalment of rent became due on 28 June 2025, the arrears are still as specified in the updated rent statement. Ms Barclay confirmed that she wished to amend the related application to reflect the sum currently owed - £4622.98.
5. In response to questions from the Tribunal Ms Barclay said that the Respondent is believed to be in employment, based on information provided last year. However, a neighbour reported that she seems to be spending more time at the property at present so that may have changed. He stopped paying rent altogether in December 2024 (except for the payment on 16 June 2025). All payments to the rent account have been made by the Respondent, not the DWP, and the Respondent has not indicated that he is no longer employed or if he has claimed or is in receipt of any benefits. Ms Barclay advised the Tribunal that the Respondent is between the ages of 30 and 35, single and has no dependents living at the property. His dad was the previous tenant, and the Respondent took over the tenancy when his dad moved to live with a partner. He is estranged from both his parents. The Applicant owns 40 to 45 rental properties, all of which are managed by Ms Barclay's company. The application was made only because of the arrears. There are a few additional minor tenancy related issues, such as complaints from neighbours about the condition of the garden, but those are not the reasons for the application.

Findings in Fact

6. The Applicant is the owner and landlord of the property.
7. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
8. The Respondent is due to pay rent at the rate of £400 per month.
9. The Respondent has been in arrears of rent since November 2022 and only one payment of rent has been received since November 2024.
10. The Respondent currently owes £4622.98 in unpaid rent.
11. The Applicant served a Notice to leave on the Respondent on 23 May 2024.

12. The Respondent is believed to reside at the property alone.
13. The Respondent has failed to respond to letters issued to him in compliance with the rent arrears pre action protocol.

Reasons for Decision

14. The application was submitted with a Notice to Leave dated 23 May 2024, together with a copy email which establishes that the Notice was sent to the Respondent on that date. The Notice states that an application to the Tribunal is to be made on ground 12, rent arrears over three consecutive months.
15. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
16. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
17. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states "(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in sub-paragraph (1) applies if – (a) for three or more consecutive months the tenant has been in arrears of rent, and (b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order."
18. Sub-Paragraph (4) states, "In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider - (a) whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and (b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Minister in regulations." Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant's rights in relation to eviction proceedings and how the tenant can access information and advice.
19. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Respondent currently owes £4622.98 and that he has been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Part 1 of Ground 12 is therefore established.

20. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -

- (a) The Tribunal is satisfied that the Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant provided copies of emails issued to the Respondent in compliance with the protocol.
- (b) The Tribunal is also satisfied that there is no evidence that the arrears are attributable to a delay or failure in the payment of a relevant benefit. The Respondent has failed to engage with the Applicant and there is no information available about any claim for, or entitlement to, universal credit or housing benefit.
- (c) The arrears are substantial and increasing.
- (d) The Respondent did not participate in the CMD or notify the Tribunal if the application is opposed.

21. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act that ground 12 has been established. For the reasons outlined in paragraph 20, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

22. The Tribunal determines that an eviction order should be granted against the Respondent.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.



Josephine Bonnar, Legal Member

2 July 2025

