

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

Chamber Ref: FTS/HPC/EV/25/0052

Re: Property at 3-1 283 Springburn Way, Springburn, Glasgow, G21 1JX (“the Property”)

Parties:

Mr Barry Rodden, 12 Fiynn Garden, Stepps, Glasgow, G33 6NZ (“the Applicant”)

Miss Rosemary McIntyre, 3-1 283 Springburn Way, Springburn, Glasgow, G21 1JX (“the Respondent”)

Tribunal Members:

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined not to grant an eviction order.

Background

1. This is a Rule 109 application received in the period between 7th January and 24th February 2025 whereby the Applicant is seeking an eviction order under ground 12. The Applicant representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 7th May 2021 at a monthly rent of £595. The Applicant representative lodged a notice to leave with evidence of service, a section 11 notice with evidence of service, a rent statement, and pre-action correspondence.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officer on 14th July 2025.
3. By email dated 27th August 2025, the Applicant representative lodged a payment plan agreement signed by the Respondent stating that the Respondent would pay the arrears at £50 per month above the monthly rental payment.

The Case Management Discussion

4. A Case Management Discussion ("CMD") took place by telephone conference on 28th August 2025. Ms Cooke, CODA Estates, was in attendance on behalf of the Applicant. The Respondent was not in attendance. The start of the CMD was delayed to allow the Respondent to attend.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
6. Ms Cooke explained the background to the application. The rent was increased in August 2024. The Respondent failed to inform Universal Credit of the increase, and rent arrears in the sum of £1500 accrued. Universal Credit have now been informed and the rent has been paid in full since February 2025. The Respondent has now entered into a payment plan with agreement to pay £50 towards the arrears each month. Ms Cooke indicated it was a matter for the Tribunal to determine reasonableness in the circumstances.
7. Responding to questions from the Tribunal, Ms Cooke said the Respondent has children living in the Property. The Applicant is a multi-property landlord.

Findings in Fact and Law

8.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 7th May 2021 at a monthly rent of £595.
 - (ii) The monthly rent was increased to £845 from August 2024.
 - (iii) The Applicant has served a notice to leave upon the Respondent.
 - (i) The Respondent has accrued rent arrears.
 - (ii) The Respondent has been in rent arrears for three or more consecutive months.
 - (iii) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
 - (iv) The Applicant has complied with the pre-action protocol.
 - (v) The Respondent has entered into a payment arrangement for payment of the arrears.
 - (vi) The full monthly rental amount has been paid by the Respondent since February 2025.

- (vii) It is not reasonable to grant an eviction order.

Reasons for Decision

9. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if for three or more consecutive months the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that Ground 12 has been established.
10. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the Respondent was in rent arrears as a result of a delay or failure in the payment of a relevant benefit. Any delay or failure appeared to be as a result of the Respondent failing to notify Universal Credit of the change in the monthly rent.
11. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. The Applicant has complied with the pre-action protocol.
12. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
13. The Tribunal considered the arrears to be moderate and static, given that full rental payments are now being made. In the conjoined action FTS/HPC/CV/25/0053, the Tribunal made an order for payment in the full sum of the arrears, namely £1500, which should provide some comfort to the Applicant that the arrears can be recovered. Furthermore, the Respondent has entered into a payment arrangement to pay the arrears at the rate of £50 per month.
14. The Respondent has children living in the Property who may be affected by the granting of an eviction order, although the Tribunal gave limited weight to this information in the absence of any representations from, or attendance by, the Respondent.
15. In all the circumstances, the Tribunal considered it would not be reasonable to grant the order sought.

Decision

16. No eviction order is granted.

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.

Helen Forbes

Legal Member

28th August 2025