

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)
under Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/25/0380

Re: Property at 2/1 35 Morar Drive, Paisley, PA2 9BB (“the Property”)

Parties:

**NAM Real Estate Ltd, 3 Garrity House, Miners Way, Aylesham, Canterbury, Kent,
CT3 3BF (“the Applicant”)**

Grzegorz Pasternak, 2/1 35 Morar Drive, Paisley, PA2 9BB (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and David Fotheringham (Ordinary Member)

Decision made on the papers in absence of the Applicant and the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment for £6060 (SIX THOUSAND SIX HUNDRED AND SIXTY POUNDS) with interest at 4% per annum from the date of the decision.

Summary of Discussion

Background

1. An application was received by the Housing and Property Chamber dated 30th January 2025. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments.
2. On 27th May 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 14th July 2025 at 10am by teleconferencing. The letter also requested all written representations be submitted by 17th June 2025.

3. On 29th May 2025, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 29th May 2025.
4. On 8th July 2025, the Applicant's representative emailed the Housing and Property Chamber requesting the amount sought be increased to £6060 still with interest at 4% per annum and for the Respondent to pay expenses of £1365.24 under Rule 40. This was notified to the Respondent by the Applicant's representative by email.
5. The case was conjoined with case FTS/HPC/EV/25/00551

The Case Management Discussion

6. A CMD was held on 14th July 2025 at 10am by teleconferencing. The Applicant was not present but was represented by Mr David Gray, Senior Accredited Paralegal, Gilson Gray LLP. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
7. Mr Gray informed the Tribunal that the Respondent last paid in November 2024. The last contact from the Respondent was in January 2025 when the Respondent told the letting agent that he was having personal problems which meant that he was unable to pay the rent charge. Mr Gray said that none of issues raised to the letting agent or any other information that he had suggested the Respondent was disabled or vulnerable. The Property has not been adapted for any disabilities. It is believed that the Respondent does not have an entitlement to Universal Credit Housing Element as it is understood that the Respondent works full time. There are no other issues with the tenancy including no antisocial behaviour.
8. In terms of the motion to amend the application raised in the Applicant's email of 8th July 2025, the Tribunal did not consider that it was in a position to do so in terms of the Rules. Rule 14A states:-

(1) Where a new issue is not raised, a party may request to amend the application, including the sum claimed, by intimating the amendment to any other party and the First-tier Tribunal at least 14 days prior to a case management discussion or hearing.

(2) The First-tier Tribunal may consent to the amendment on such conditions, if any, as the First-tier Tribunal thinks fit.

This request was made 13 days before the CMD. It explicitly states that it must be 14 days prior to the CMD. Mr Gray had suggested that there may be issues of harm to both parties not to proceed. However, he was not in a position to direct the Tribunal to where it derived from that it should take consideration of

harm in terms of this Rule. Taking all of this into consideration the Tribunal said that it was not persuaded that the amount sought should be amended.

9. The Tribunal accepted that there is a cost to both the Applicant and the Tribunal to continue to a further date. There is also the added stress to the Respondent when the matter is not able to be dealt with in an expedient manner. However, given the representations that have been made by Mr Gray which were namely that the amendment was only one day short of the legal requirement and that the further continuing of this case may cause further stress upon both the Applicant and the Respondent the Tribunal noted that this could be continued to a further date. Mr Gray was concerned about this. The Tribunal noted that under Rule 18 it was possible to continue to have the case determined upon the papers. The Tribunal will need to seek the views of all the parties. If there are no objections then the case can proceed on the papers. Mr Gray will have to submit any increase in amount sought no later than 14 days before it is dealt with on the papers. If there is an objection then this case will continue to another CMD done by teleconference.
10. Mr Gray asked the Tribunal to award expenses in this case but not the conjoined case. He said that the Applicant had expenses due to the work which had been undertaken. This was on a fixed fee basis but required to be done. The Tribunal queried if the Applicant or the Applicant's letting agent were members of the Scottish Association of Landlords ("SAL"). He confirmed that the letting agent was a member of SAL. The Tribunal considered that this route could have been explored but that the Applicant had elected to take legal advice. Mr Gray asked that expenses be taxed. He referred the Tribunal to Rule 40, which addresses expenses. Rule 40 states that:-

(1) The First-tier Tribunal may award expenses as taxed by the Auditor of the Court of Session against a party but only where that party through unreasonable behaviour in the conduct of a case has put the other party to unnecessary or unreasonable expense.

(2) Where expenses are awarded under paragraph (1) the amount of the expenses awarded under that paragraph must be the amount of expenses required to cover any unnecessary or unreasonable expense incurred by the party in whose favour the order for expenses is made.

11. The Tribunal noted that it was clear that this is only in the case where there has been unreasonable behaviour by a party in the conduct of the case which has caused the other party to have an unnecessary or unreasonable expense. The Tribunal noted that there was no antisocial behaviour and that the Respondent has not engaged with the Tribunal at all never mind causing unnecessary or unreasonable expense. The Tribunal deals with many such cases a year with similar content. It exists to do so. This case is not peculiar from those others to warrant the expenses being taxed. Mr Gray confirmed that the behaviour by the Respondent was neither unnecessary nor unreasonable in terms of the legal process. He accepted that there would not be an award of expenses.

12. The Tribunal continued to allow the case to be heard on the papers in terms of Rule 18. A direction dated 14th July 2025 was issued to determine if either party objected to deciding this case on the papers. Parties were directed to respond no later than close of business on 31st July 2025.
13. On 22nd July 2025 the Applicant's legal representative emailed the Housing and Property Chamber to advise that there was no objection to the matter proceeding on the papers. No response was received from the Respondent.
14. As there was no objection to the application proceeding on the papers the Tribunal was satisfied that the outstanding amount for £6060 with interest at 4% per annum from the date of the decision was due to the Applicant by the Respondent and that it was appropriate to grant an order accordingly.

Findings and reason for decision

15. A Private Rented Tenancy Agreement commenced 10th October 2023.
16. The Respondent persistently failed to pay his rent charge of £520 per month. The rent payments are due to be paid on the 10th day of each month.
17. Arrears accrued to more than three months arrears of rent payments at the date of application and was more than one months arrears of rent payment at the date of the CMD.
18. The current arrears total £6060. This is higher than the amount stated in the application, which was £1985.25. There have been no payments since November 2024.

Decision

19. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £6060 with interest at 4% per annum from the date of the decision.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland

(Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Gabrielle Miller

22nd September 2025

Legal Member/Chair

Date