

**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/25/1804

Re: Property at 29 0/1 Kirkwood Street, Glasgow, G73 2SN (“the Property”)

Parties:

**Mr John Whyte, Greenwood House, 1st Floor, 91-99 New London Road,
Chelmsford, Essex, CM2 0PP (“the Applicant”)**

**Mr Majdi Mohsin, 29 0/1 Kirkwood Street, Glasgow, G73 2SN (“the
Respondent”)**

Tribunal Members:

Ms H Forbes (Legal Member) and Mrs M Lyden (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.**

Background

1. This is a Rule 109 application received on 26th April 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 22nd November 2023 at a monthly rent of £450, a notice to leave with evidence of service, a section 11 notice with evidence of service, and a rent statement.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by personal service by Sheriff Officer on 21st August 2025.
3. By email dated 27th August 2025, the Applicant representative lodged an updated rent statement showing arrears in the sum of £4500.

The Case Management Discussion

4. A Case Management Discussion ("CMD") took place by telephone conference on 6th October 2025. Mr Anderson-Troy 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. Mr Anderson-Troy explained the background to the application. It has been difficult to correspond with the Respondent as he has not been responding to attempts at contact. A gas engineer attended at the Property in August 2025 and the Respondent refused entry and asked not to be contacted again. The Respondent appears to have blocked the letting agent on his mobile phone. Rent has been unpaid since December 2024. The Respondent has not engaged in attempts to discuss the matter or set up a payment plan. The Respondent has changed the locks on the Property. Mr Anderson-Troy said he was contacted by a care worker from the local authority. The care worker said there were health issues and that they were attempting to work with the Respondent to reach agreement on a payment plan. Mr Anderson-Troy said he attempted to contact the care worker in August 2025 but did not receive a response. Mr Anderson-Troy said the Respondent was in employment at the start of the tenancy. It is not clear if he is still in employment. Enquiries have been made of Universal Credit, but no information was forthcoming, which Mr Anderson-Troy felt tended to show the Respondent was not on benefits. The Respondent lives alone.
7. Responding to questions from the Tribunal, Mr Anderson-Troy said the letting agent sends weekly emails to tenants in arrears with a rent statement. Monthly letters and statements are also sent out. Responding to questions as to why no pre-action correspondence had been submitted, Mr Anderson-Troy said the letting agent has a standard automatic procedure for issuing pre-action correspondence and this has been followed in this case. Mr Anderson-Troy said a repair was required to the bathroom floor of the Property, but the Respondent failed to allow access for a second quote from a contractor. The Respondent has not indicated at any time that he was withholding rent due to repairs.
8. Mr Anderson-Troy said the Applicant has three properties. He is in employment. There are costs associated with the Property such as letting agent fees, maintenance and insurance costs, and the failure to pay rent is causing the Applicant difficulty. He intends to let the Property again if an order is granted.

Findings in Fact and Law

9.

- (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 22nd November 2023 at a monthly rent of £450.
- (ii) The Applicant has served a Notice to Leave upon the Respondent.
- (iii) The Respondent has accrued rent arrears.
- (iv) The Respondent has been in rent arrears for three or more consecutive months.
- (v) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
- (vi) The Applicant has complied with the pre-action protocol.
- (vii) It is reasonable to grant an eviction order.

Reasons for Decision

10. 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.
11. 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.
12. 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. Although no pre-action correspondence was lodged, the Tribunal was satisfied on the evidence before it that the Applicant representative has complied with the pre-action protocol by sending emails and letters to the Respondent.
13. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.

14. The Respondent has not paid rent since December 2024. The arrears are now substantial and rising. The Respondent did not see fit to attend the CMD or make any representations to assist the Tribunal in considering reasonableness. The Tribunal took into account the information provided by the Applicant representative, including the fact that the Respondent previously had a care worker and health issues. The Tribunal was unable to assess the likely effect of an eviction order upon the Respondent in the absence of any representations. The Respondent has disengaged and is making no effort to pay the rent or address the arrears. He has failed to address the arrears over a lengthy period despite the efforts of the letting agent. The Tribunal considered it likely that, if no order was granted, the arrears would continue to rise. The Tribunal considered the tenancy is not sustainable
15. The Tribunal took into account the information provided by Mr Anderson-Troy regarding the Applicant's circumstances, and the email from the Applicant on the case file, where he states that he is under financial pressure due to personal circumstances. The Tribunal considered the Applicant is suffering financially and personally as a result of the Respondent's failure to pay the rent and address the arrears.
16. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend or make representations to the Tribunal to indicate why an order should not be granted, and the Respondent failed to do so. The Tribunal considered it was reasonable to grant the order sought.

Decision

17. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 10th November 2025.

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/Chair

6th October 2025
Date