



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 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/25/1343

Re: Property at 5 Tarbert Place, Polmont, FK2 0YX (“the Property”)

Parties:

Mr Christopher Brown, 93 Erskine Hill, Polmont, FK2 0UH (“the Applicant”)

Mr Michael Lynch, 5 Tarbert Place, Polmont, FK2 0YX (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Tony Cain (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession of the property be granted.

Background

1. By application received on 31 March 2025, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Grounds 12 (rent arrears for three consecutive months) of Schedule 3 to the 2016 Act. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same, a Rent Statement and evidence regarding the ‘pre-action protocol’. An application for payment of the rent arrears was submitted at the same time and was conjoined with this application. Both applications thereafter proceeded together through the Tribunal process.

2. Following initial procedure, on 16 April 2025, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. A Case Management Discussion ("CMD") was fixed for 8 October 2025 at 10am. The application and details of the CMD scheduled were served personally on the Respondent by Sheriff Officer on 22 August 2025. In terms of said notification, the Respondent was given an opportunity to lodge written representations by 11 September 2025 but none were lodged prior to the CMD.
4. On 23 September 2025, an application to increase the sum sought in the payment application from £3,390 to £6,990 was submitted on behalf of the Applicant by email, also copied directly to the Respondent by the Applicant on submission to the Tribunal. An updated supporting Rent Statement was also submitted. On receipt, the Tribunal also intimated a copy of same to the Respondent.

Case Management Discussion

5. The CMD took place by telephone conference call on 8 October 2025 at 10am. In attendance was Ms Alexandra Wooley of BKF & Co, solicitors on behalf of the Applicant. The Tribunal delayed commencement of the CMD for 5 minutes to give the Respondent an opportunity to join late but they did not do so.
6. Following introductions and introductory remarks by the Legal Member, Ms Wooley provided an update on the applications. She confirmed that nothing has been heard from the Respondent in recent times and that no further payments towards rent have been received since the date of the most recent rent statement. The Respondent is understood still to be living at the Property. Both orders are still sought. Ms Wooley then addressed both applications and the Tribunal Members asked her a number of questions throughout.
7. Ms Wooley made reference to the supporting paperwork and confirmed that the rent arrears currently stand at £6,990, having been in existence since October 2024, a year ago. There have been no payments made to the rent account by the Respondent since February 2025. No payment proposals have been made and no explanation provided by the Respondent for the arrears. The Applicant is 75 years old and retired. He relies on the rental income to supplement his pension. He has three rental properties, two of which are in Scotland and one in England. The Applicant no longer wishes to be a landlord and it is his intention to sell this Property if he recovers it and to use the proceeds as additional income. As to the Respondent's circumstances, Ms Wooley advised that the Applicant is not aware of anyone else living at the Property with him, nor of any health conditions that he may have. His age is not known and nor is his current employment status as he has sometimes stated in the past that he was working but, at other times, that he was not. The Applicant is not aware as to whether the Respondent is in receipt of any

state benefits or if he has made any efforts to find alternative housing. Ms Wooley referred to the 'pre-action protocol' letters lodged with the application and explained that further such letters have been issued on behalf of the Applicant more recently, dated 28 August 2025 and 1 October 2025. However, the Respondent has failed to engage with the Applicant. Ms Wooley confirmed that the local authority will be aware of this application through the Section 11 Notice procedure carried out on behalf of the Applicant at the outset of the Tribunal proceedings. She stated that the local authority are under an obligation to provide emergency accommodation to tenants who will be homeless. She submitted that, in the circumstances, it was reasonable for the Tribunal to grant the eviction order sought.

8. The Tribunal Members adjourned to discuss the applications in private. On re-convening, it was confirmed that the Tribunal was satisfied that the ground for eviction was met and also that it was reasonable to grant the order in all the circumstances of the case. There was some brief discussion regarding the procedures to follow. Ms Wooley was thanked for her attendance and the CMD was concluded.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 10 April 2019.
3. The rent due in respect of the tenancy was originally £550 per calendar month but had been increased twice during the tenancy, firstly to £560 and then to £600 which applied from July 2024 onwards.
4. There was a background of rent arrears accruing from October 2024, with several months of rental payments missed altogether.
5. The last payments made towards rent were in February 2025, amounting to £210 in total, and no payments have been made since.
6. Arrears amounted to £2,400 when the Notice to Leave was served in January 2025, £3,390 when this application was lodged in March 2025 and now amount to £6,990.
7. The Applicant's representatives have sought to engage with the Respondent concerning the rent arrears and issued several communications to them in respect of the 'pre-action protocol' and further communications since.
8. There has been little engagement from the Respondent and no explanation or payment proposals offered by the Respondent.

9. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by email in terms of the tenancy agreement, on 21 January 2025 2025.
10. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 22 February 2025.
11. This Tribunal Application was submitted on 31 March 2025.
12. The Respondent has remained in occupation of the Property.
13. The Respondent has been called upon to make payment of the rental arrears or enter into a satisfactory payment arrangement but has failed to do so.
14. The Respondent was in rent arrears for three or more consecutive months when Notice to Leave was served and this remains the position.
15. There is no indication that the arrears have arisen wholly or partly as a result of a failure or delay in the payment of relevant benefits.
16. The Respondent did not lodge any written representations with the Tribunal, not seek time to pay, nor attend the CMD.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, the procedural background to the application and to the oral representations at the CMD by the Applicant's solicitor.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the correct period of notice had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.
3. The Tribunal considered the ground of eviction relied upon in this application, namely Ground 12, and was satisfied in that all requisite elements of that ground had been met. The Tribunal was satisfied that the Respondent has not vacated the Property, that there were now substantial rent arrears amounting to £6,990 and that the rent had been continuously in arrears for a lengthy period of time, with only two payments amounting to £210 having been made in February 2025, which the Tribunal noted was just after notice was served. The rent had been in arrears for a period exceeding three consecutive months when notice was served and has now been in arrears for a year.

4. As to reasonableness, all the factors narrated above satisfied the Tribunal that it was also reasonable to grant an order in these circumstances and to do so at this stage. Apart from the significant rent arrears owing which were impacting on the Applicant's finances, the Tribunal noted that the Applicant was 75 years old, retired, reliant on the rental income and also wishing to sell the Property and no longer be a landlord. There was no indication that the Respondent's failure to pay rent was due to any failure/delay in payment of state benefits and it was clear that the Applicant had sought to engage with the Respondent throughout regarding the arrears and had taken steps to try and resolve the situation with them, to no avail. The Respondent had failed to engage meaningfully nor taken any other steps to resolve the arrears situation. They had not made any payments to account since February 2025 and prior to that had missed several months' rental payments. The Respondent had not entered into the Tribunal process by lodging any representations, seeking time to pay in respect of the payment application and nor did they attend the CMD. The Tribunal therefore had no material before it either to contradict the Applicant's position nor to advance any reasonableness arguments on behalf of the Respondent. The Tribunal accordingly determined that an order for recovery of possession of the Property could properly be granted at the CMD as, in the circumstances, there was no need for an Evidential Hearing.

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.

Nicola Weir

Legal Member/Chair

Date: 8th October 2025