

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/25/0163

Re: Property at 90 Alison Lea, East Kilbride, G74 3HW (“the Property”)

Parties:

Mr Kenneth McKenzie, Mrs Heather McKenzie, 40 Loch Torridon, East Kilbride, G74 2ET (“the Applicants”)

Mr David Whalin, 90 Alison Lea, East Kilbride, G74 3HW (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicants. The extract of the Order is superseded until 30th November 2025.

Background

1. An application was received by the Housing and Property Chamber dated 14th January 2025. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 20th August 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 1st October 2025 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 20th August 2025.

3. On 21st August 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 21st August 2025.

The Case Management Discussion

4. A CMD was held on 1st October 2025 at 2pm by teleconferencing. The Applicants were not present but were represented by Ms Ann Kelly, Lettings Manager, The Property Store EK Ltd. The Respondent was present and represented himself.
5. Ms Kelly said that the current arrears were £4750.48. The last payment was made today for £495.52. Prior to that there was a payment on 1st September 2025 for £324.94 and £170.58. This is a direct payment from the DWP for Universal Credit. She said that she had not heard from the Respondent this year. The Applicants were now selling off their properties and left only with this one. They are intending to retire. The Property is not mortgaged but there is a financial pressure from the Respondent not paying the rent.
6. The Respondent said that he was diagnosed with Type II diabetes on 27th December 2024. It has affected his mental health. He then snapped his kneecap at the end of March 2025. This has had a significant impact upon him. He said that he has not worked for three years. He is not able to work currently due to his ongoing health conditions. His only income is Universal Credit.
7. The Respondent said that he could not oppose the granting an order but did not want to move until such time as he has had a suitable offer from his local authority. He is very worried about where he will be allocated temporary accommodation in an inappropriate area. He wishes to continue to live in his current area as he has a lot of family support in his direct area. He needs this with his ongoing health conditions. His two children live close to him. They are 10 and 15 years old and stay with him a few days each week.
8. The Respondent said that he would continue paying the full rent until January 2026 or such time as he was rehoused in a suitable property. The Tribunal was concerned by the Respondent paying £250 extra per month with his Universal Credit would be sustainable given that he has not paid his full rent charge this year. The Respondent said that he would ensure that it was paid while he was in the Property. The Respondent said that he has taken money advice and investigated the possibility of a Discretionary Housing Payment. He has been told that he is not entitled to it as he has previously received this in previous years. The Respondent noted that he has lived in that property for 14 years. He had been living in it with his ex partner and their children until their relationship broke down. At that point he entered into the current PRT.
9. The Tribunal considered these points. The Tribunal considered that it was reasonable to grant an order for eviction. The Respondent cannot afford to pay the full rent charge. He wants to be rehoused by his local authority. It is unknown when he will be rehoused. It is not reasonable to supersede extract

for a long period when the Respondent is not able to pay a third of his rent due to affordability issues. However, the Tribunal did consider it reasonable to supersede the extract for one month taking into consideration the Respondent's mental health conditions. The Tribunal superseded the extract until 30th November 2025.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 2nd October 2020.
11. The Respondent has persistently failed to pay his rent charge of initially £560 per month which has increased to £750 per month. The rent payments are due to be paid on the second day of each month.
12. The Respondent has been in rent arrears for three or more consecutive months when the notice was served and one month at the date of the CMD.
13. There are no known outstanding Universal Credit issues. The Respondent receives around £495 per month in Universal Credit Housing Element each month. He is not entitled to anymore. He is not entitled to a Discretionary Housing Payment. This amount is paid by direct payments from the DWP to the Applicants.
14. The Respondent cannot afford to continue to live in the Property.
15. The Respondent is working with his local authority to be rehoused. He has given information regarding his medical conditions. He wants to be rehoused in the current area which he lives in at the moment.
16. The Applicants intend to retire from being landlords. They have sold their other properties and this is their last property. There is no mortgage on the Property.
17. The current arrears sought are £4750.48. In the application the arrears were £1656.20.
18. There are no issues of reasonableness that prevent an order from being granted.

Decision

19. The Tribunal found that ground 12 has been established and granted an order in favour of the Applicant.

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.

Gabrielle Miller

1st October 2025

Legal Member/Chair

Date