



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/25/1372

Re: Property at G/2, 1 Ferryfield Gardens, Alexandria, G83 0TB ("the Property")

Parties:

Mr Graham Byars, 7 Oakburn Walk, Jamestown, G83 9NR ("the Applicant")

Mr Neil McNair, G/2, 1 Ferryfield Gardens, Alexandria, G83 0TB ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member) and Helen Barclay (Ordinary Member)

Decision

At the Case Management Discussion ("CMD") which took place by telephone conference on 20 October 2025, the Applicant was not in attendance but was represented by Mrs Claire Morrison and Mr Stuart Barriskel. The Respondent was also present.

Prior to the CMD the Tribunal received from the Respondent an email dated 18 September 2025.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that -

Background

The Tribunal noted the following background:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The application concerns a Private Residential Tenancy ("PRT") entered into between the parties relative to the Property that commenced on 16 August 2021.
- iii. The rent payable in terms of the PRT was originally agreed to be £595 per calendar month.
- iv. On 26 February 2025, the Applicant served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 29 March 2025 on the basis of Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act"). The Notice to Leave attached a Rent Statement in terms of which rent arrears of £2263.50 were stated to be due.

- v. On 19 February 2025 the Applicant served on the Respondent a letter to comply with the Scottish Governments pre-action protocols.
- vi. The Applicant has served on West Dunbartonshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

The following oral representations were made to supplement the parties' written submissions:-

For the Applicant

Mrs Morrison stated:-

- i. An eviction order is being sought against the Respondent.
- ii. The rent arrears now due are £5,524.50 which takes into account two payments of £750 made by the Respondent personally on each of 26 August and 26 September 2025, and a payment of Universal Credit of £475 on 21 March 2025.
- iii. An up to date Rent Statement was sent to the Respondent at the end of August 2025.
- iv. At the current rate, the arrears would take 57 months to clear. The Applicant is not prepared to wait that length of time.
- v. It is not known whether there is a mortgage over the Property.
- vi. The Property was previously the Applicant's main residence.
- vii. He has 3 other properties.

By the Respondent

The Respondent stated:-

- i. He lives in the Property alone. He previously lived there with his former partner until the beginning of 2024.
- ii. The Property has 2 bedrooms.
- iii. He is now in full-time employment and has held such employment for 4 months. He works in a warehouse and assists the kitchen design team.
- iv. Previously he was self-employed as a joiner fitting kitchens for Wren along with other similar contractors. One of the other contractors fell out with Wren and the contract was lost early in 2024.
- v. Subsequently and prior to securing his current position he was in and out of work and fell behind with the rent.
- vi. At the start of 2024 he was also diagnosed as Type 2 diabetic.
- vii. Around the same time he lost his driving licence and was banned for a year. He hopes to obtain his driving licence back in January 2026.
- viii. Prior to the various events of early 2024 he was always on top of his rent and was making good money. His income has now dropped by around £10,000 per annum.
- ix. With regard to Universal Credit he applied in January 2025, and understood rent would be paid every month and that 3-4 such payments would be made. Only one payment was made and whilst he has tried to make enquiries about this no progress has been made and he has little time as he works 6 days every week.
- x. His wages are paid on the 25th of each month and in August and September 2025 he paid rent for that month plus a bit more towards the arrears.
- xi. He is behind too with payments of maintenance for his 13 years old son.
- xii. He would like to remain a tenant in the Property at least until he gets his driving licence back. The Property is only 2 minutes walk from the train station. He takes the train to work which is a 40 minute journey then a 15 minute walk to his place of employment.

- xiii. He has tried to apply for Council accommodation as the rent for the Property is high to maintain on his own. However, he has no priority and has been told there is a very long waiting list.
- xiv. If an eviction order is granted he would need to look for a private let but this may be difficult due to the arrears due.
- xv. The rent increased to £654.50 per month in July 2024.
- xvi. He has had a run of bad luck. It is tough in the building trade but he is now in fulltime employment for the foreseeable future. Indeed the manager at his work is coming up for retirement and he may have prospects of promotion.
- xvii. There is also a bonus scheme at his work so, if earned, would allow him to contribute more towards the arrears.
- xviii. He is 45 years old.
- xix. He has a van. He has fallen behind with the finance payments and will need to sell it. He has been offered £12,500 for the vehicle. £7,000 is still due to the finance company but he could pay some of the balance towards the arrears.
- xx. He apologises for the rent arrears. He never wanted the situation to get to this stage.

The Tribunal adjourned to consider the parties' positions.

Findings in Fact

The Tribunal made the following findings in fact –

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Property has 2 bedrooms.
- iii. The application concerns a PRT entered into between the parties relative to the Property that commenced on 16 August 2021.
- iv. The rent payable in terms of the PRT was originally agreed to be £595 per calendar month.
- v. The rent increased to £654.50 per month in July 2024.
- vi. On 26 February 2025, the Applicant served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 29 March 2025 on the basis of Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act"). The Notice to Leave attached a Rent Statement in terms of which rent arrears of £2263.50 were stated to be due.
- vii. On 19 February 2025 the Applicant served on the Respondent a letter to comply with the Scottish Governments pre-action protocols.
- viii. The Applicant has served on West Dunbartonshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- ix. The rent arrears now due are £5,524.50 which takes into account two payments of £750 made by the Respondent personally on each of 26 August and 26 September 2025, and a payment of Universal Credit of £475 on 21 March 2025.
- x. The Respondent has lived in the Property alone since he separated from his former partner at the beginning of 2024.
- xi. The Respondent is now in full-time employment and has held such employment for 4 months. He works in a warehouse and assists the kitchen design team.
- xii. Previously the Respondent was self-employed as a joiner fitting kitchens for Wren along with other similar contractors. One of the other contractors fell out with Wren and the contract was lost early in 2024.
- xiii. Subsequently and prior to securing his current position the Respondent was in and out of work and fell behind with payment of rent due under the PRT.
- xiv. At the start of 2024 the Respondent was also diagnosed as Type 2 diabetic.

- xv. Around the same time the Respondent lost his driving licence and was banned for a year.
- xvi. The Respondent hopes to obtain his driving licence back in January 2026.
- xvii. Prior to the various events of early 2024 the Respondent was always on top of his rent and indeed there were no arrears as at 11 October 2024
- xviii. The Respondent is in arrears with payments of maintenance for his 13 years old son and finance payments due on his van.
- xix. The Property is only 2 minutes walk from the local train station.
- xx. The Respondent takes the train to work which is a 40 minute journey then a 15 minute walk to his place of employment.
- xxi. The Respondent has tried to apply for Council accommodation as the rent for the Property is high to maintain on his own. However, he has no priority and has been told there is a very long waiting list.
- xxii. Obtaining a private let may be difficult for the Respondent due to the arrears due.
- xxiii. The Respondent has had a run of bad luck.
- xxiv. The Respondent is now in fulltime employment where he can earn bonuses in addition to his basic wage.
- xxv. He is 45 years old.
- xxvi. The arrears payable equates to almost 8.5 months rent.
- xxvii. Paying the arrears at £100 per month would take in excess of 4.5 years to be cleared in full.

Reasons for Decision

The factual background was not in dispute between the parties. The Respondent was candid in sharing with the Tribunal the circumstances that had led to the rent arrears falling due. It was clear from the Rent Statements produced by the Applicant that until October 2024 the Respondent had been a good tenant and had paid rent when it fell due. He has managed to get back on his feet in recent times and had obtained secure full-time employment with prospects of promotion. Travel time to and from work is fairly onerous and these pressures will be eased once his driving licence is returned.

By his own admission the monthly rent is high for the Respondent to maintain on his own. He would be better to find a one bedroomed property.

The Applicant had received only one payment towards rent between December 2024 and August 2025. The arrears are significant and whilst the Respondent has sought to pay in excess of his monthly rent to reduce the debt it would take years to clear the arrears at that rate. The other ways in which the Respondent could pay off the arrears more quickly were somewhat speculative by reference to bonus payments and the sale of a van, neither of which had happened.

In the circumstances the Tribunal determined that it is reasonable to grant an eviction order in favour of the Applicant. The granting of an eviction order may assist the Respondent in his application to the local authority for accommodation.

Having reached the decision to grant an eviction order the Tribunal carefully considered whether to delay the execution of the eviction order in terms of Rule 16A(d) of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017. The Tribunal concluded that it is reasonable to provide the Respondent with an extended period of time to secure alternative accommodation given that the festive period is only 2 months away and to allow the Respondent, hopefully, to obtain back his driving licence early in the New Year.

Accordingly, the Tribunal determined that the order cannot be enforced until 12noon on 31 January 2026.

Decision

The Tribunal granted an eviction order against the Respondent in favour of the Applicant with execution of that order delayed until 12noon on 31 January 2026.

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.

Gillian Buchanan

Legal Member/Chair: Gillian Buchanan

Date: 20/10/2025