



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 Procedure Regulations”)

Chamber Ref: FTS/HPC/EV/24/2645

Re: Property at 1/1, 17 Dyke Street, Baillieston, Glasgow, G69 6DZ (“the Property”)

Parties:

David MacGregor, Flat 3/1, 35 Montague Street, Glasgow, G4 9HU (“the Applicant”)

Mr Ross Carrie, 1/1, 17 Dyke Street, Baillieston, Glasgow, G69 6DZ (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Elaine Munroe (Ordinary Member)

Decision

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. This application and an application for a payment order in respect of rent arrears were both submitted on 10 June 2024 and were conjoined and proceeded through the Tribunal process together, until 29 April 2025, when the payment order was granted in the sum of £2,475. The sum originally sought in the payment application had been £3,325. The tenancy had commenced on 18 October 2021 at a monthly rental of £475 which has remained the rent throughout. Notice to Leave was served on the Respondent on 15 April 2024.

2. The eviction order sought against the Respondent was on the grounds of three months' consecutive rent arrears under Ground 12 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- 2 Following initial procedure, on 2 July 2024, 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 in respect of both applications and notification was made to the Respondent by way of Sheriff Officer on 14 October 2024. In terms of said notification, the Respondent was requested to lodge any written representations by 1 November 2024. No written representations were lodged prior to the Case Management Discussion ("CMD").
- 3 Prior to the CMD on 19 November 2024, the Applicant had increased the sum claimed in respect of the rent arrears to £4,750 but by the date of the CMD, the arrears had been reduced to £3,975.
- 4 The CMD took place on 19 November 2024, when the Applicant's solicitor and the Respondent were in attendance. The Respondent opposed eviction, explained the background circumstances to the arrears and his failures to engage with the Applicant and stated the intention to try and negotiate a payment plan. He stated an intention to meet the ongoing rental payments of £475 per calendar month, plus pay the sum of £300 per month towards the arrears. The application was adjourned to an Evidential Hearing and a Direction issued. The Direction was not complied with by the Respondent, who failed to engage further with the Tribunal.
- 5 The first Evidential Hearing took place on 10 February 2025 and was attended by the Applicant and his solicitor. The Respondent did not attend. The Applicant moved for an eviction order and addressed the Tribunal in this regard. Arrears had further reduced to £3,375 and the Respondent had been making the payments totalling £775 per month that he had proposed at the CMD. On this basis, the Tribunal declined to make an eviction order and adjourned to a further Evidential Hearing to seek the further documentary evidence sought from the Respondent and to monitor his further payments and the arrears situation. A further Direction was issued and, again, the Respondent failed to comply.
- 6 The second Evidential Hearing took place on 29 April 2025. The same attendees were present and the same motion made on behalf of the Applicant. Both the Applicant and his solicitor addressed the Tribunal in this regard. Arrears had reduced again, to £2,475, and the equivalent of the monthly payments of £775 had been maintained by the Respondent, albeit the payment pattern was much more erratic, with payments due having been missed and made up later. On the basis that the remaining balance would be cleared within around 8 months at this rate, the Tribunal again opted not to grant an eviction order but to adjourn for a further period. Given the Applicant's position in the matter, and the concerns he had expressed regarding the uncertainty of the situation, the Tribunal confirmed that a further Direction would be issued to the

Respondent in the eviction application and also granted a payment order in respect of the outstanding balance of the arrears of £2,475 in respect of the payment application. Again, the Respondent did not comply with the Direction.

Evidential Hearing – 8 August 2025

1. The adjourned (third) Evidential Hearing took place by telephone conference call on 8 August 2025 at 10am and was attended by the Applicant, Mr David MacGregor and by his legal representative, Mr Ian Black, of Mellicks solicitors. Also in attendance was the Respondent, Mr Ross Carrie.
2. There was initial discussion regarding the parties' up-to-date positions with regard to the eviction application, the current rent arrears and the procedural background to the case.
3. Mr Carrie was still opposed to eviction and addressed the Tribunal in detail regarding his current personal circumstances, issues with his mental health and his explanation for his failures to engage with the Applicant and the Tribunal and to make any further payments towards rent or arrears since the previous Evidential Hearing in April 2025. Essentially, his position was that his mental health conditions make it difficult to function, carry out essential tasks, deal with his personal and financial affairs and to seek assistance and support from health professionals, the benefits' authorities and other advice agencies. He stated that he was currently in receipt of around £1,250 per month by way of benefits, although thinks that he may be due for an annual review. It was ascertained that he had over £3,000 currently in his bank account and could not explain why he had stopped making payments due to the Applicant over the past three or four months, other than that he had been struggling to cope. During an adjournment in the proceedings, Mr Carrie transferred the sum of £2,000 to Mr MacGregor, together with a screenshot showing the remaining balance in his account, which exceeded £1,000. Mr Carrie stated that he was restricted by his bank from transferring more than £2,000 in one day but that he intended to forward a further payment to Mr MacGregor the following day. Mr MacGregor confirmed that he had received the £2,000 and the screenshot of Mr Carrie's bank balance.
4. Mr Black also addressed the Tribunal in detail regarding Mr MacGregor's position in the matter. Whilst Mr MacGregor is sympathetic to Mr Carrie's health issues and notes the further payment made, his position remains the same as on earlier occasions, that he wishes an eviction order granted, the tenancy brought to an end and the Tribunal process concluded. Mr MacGregor has been seeking to deal with Mr Carrie and the rent arrears situation for around two years now. Apart from the financial uncertainties he has faced, he has found the situation very stressful to manage, so much so, that he no longer wishes to be a landlord. This is the only property that he lets out. The situation is untenable. He has complied with the Tribunal throughout the process and feels that all avenues have been exhausted. Reference was made to the Respondent's repeated failure to engage or do what has been asked of him by

the Tribunal and also his failure to seek help and advice available to him, even when it has been offered to him. In the circumstances, it was submitted that it was reasonable for the Tribunal to grant an eviction order.

5. Mr Carrie stated that he had no wish to cause stress or anxiety to Mr MacGregor and understood his position. He admitted that he had avoided dealing with matters and not sought the help that he requires but was aware that he must do so.
6. The Tribunal Members adjourned again to discuss matters in private. On re-convening, it was explained that, due to the statements made by Mr Carrie today, the Tribunal had concerns regarding his mental health background and current state of mind. Accordingly, the Tribunal considered that it was obligated to make a referral/request a welfare check be carried out on Mr Carrie. Mr Carrie provided his necessary personal details and contact information in this regard and indicated that he would engage with this process.
7. The Legal Member also explained that having thoroughly considered the position, the Tribunal had decided not to grant the order sought. However, it was explained that, rather than simply adjourning to another hearing in a few months' time, the Tribunal would issue a further Direction requiring Mr Carrie to take some positive steps towards resolving his personal/health situation and matters concerning the rent arrears and his tenancy generally, and to demonstrate to the Tribunal that he has done so. The Tribunal Members would consider the position again at that stage and then make a decision as to further procedure. It was pointed out to Mr Carrie that, if he did not engage and comply with the Direction, the Tribunal may decide to determine the application without convening another hearing [Rule 18 of the Procedure Rules]. Mr Carrie was urged to seek the appropriate advice and support and comply with the Direction. He was informed that the Tribunal paperwork issued to him contains details of advice agencies that could assist and that the Tribunal website also has a 'useful links' section containing this information. Parties were thanked for their attendance and participation and the hearing was concluded.
8. Following the Evidential Hearing, the Tribunal made a request through the Tribunal Administration for a welfare check to be carried out on Mr Carrie. A detailed Hearing Note was also issued to parties narrating the above, together with a Direction dated 8 August 2025 in the following terms:-

"1. The Respondent is required:-

(a) to confirm in writing to the Tribunal his position in respect of this application for eviction;

(b) if he is still opposed to the application:-

(i) his written proposals for resolving the current rent arrears situation and meeting his ongoing rental payments;

- (ii) *written details of any steps taken to seek advice, assistance or support in respect of his stated mental health issues, his benefits entitlement or in respect of his debt/housing situation; and*
 - (iii) *to lodge any supporting documentation in respect of his mental health issues (such as a current GP report) and being certified unfit for work, his benefits position and his current monthly income and expenditure.*
2. *The Applicant is required to lodge an updated Rent Statement and any further evidence or submissions that he wishes to make in respect of this application.*

The documentation required from parties, as specified above, must be lodged with the Tribunal Administration within 21 days of today's date, being 29 August 2025."

Further Procedure

9. On 28 August 2025, in response to the Tribunal's Direction, the Applicant's representative lodged an updated Rent Statement showing that the arrears balance of the rent account as at that date was £1,900 and that no payments had been made to the rent account by the Respondent since the £2,000 he had transferred to the account during the Evidential Hearing on 8 August 2025.
10. No response was received from the Respondent to the Direction within the time limit stated. Accordingly, on 16 September 2025, the Tribunal wrote to the Respondent in the following terms:-

"The Tribunal Members have noted that you have not responded to the Tribunal's Direction dated 8 August 2025, issued following the further hearing on that date, at which you were personally present. A further copy of the Direction is attached for your attention and you will note that the date for compliance has now passed. The Applicant has complied with the Direction and lodged an updated Rent Statement on 28 August 2025, which has already been copied to you. It appears to show that no further payments have been made towards the rent account, since the date of the hearing, despite the assurances you made at the hearing that further payment would be made.

The Tribunal now requests a response from you to the Direction within the next 7 days, failing which the Tribunal may decide to make a decision in the eviction application, without convening another hearing, under Rule 18 of the Procedure Regulations. You were informed at the CMD that this was a possibility."

11. Again, no response was received from the Respondent within the time limit stated. On 30 September 2025, the Tribunal wrote to both parties in the following terms:-

"In view of the lack of response from the Respondent to the Tribunal's Direction dated 8 August 2025 and to the further reminder issued to the Respondent dated 16 September 2025, the Tribunal has now decided to determine the application under Rule 18 of the Tribunal Procedure Rules, without convening a further hearing. The Tribunal will take into account all background information in respect of this application, including all written representations lodged and parties' oral submissions at previous CMDs and Hearings.

If any party wishes to make any further written representations or advise the tribunal of any updates, please submit these to the Tribunal within the next 7 days. The Tribunal specifically requests that the Applicant lodges an updated rent statement towards the end of the 7day period, together with confirmation as to whether there has been any direct contact from the Respondent meantime."

The Tribunal also reproduced in full the terms of Rule 18 of the Regulations in this communication.

12. On 3 October 2025, the Applicant's representative responded to the Tribunal's request and lodged a further updated Rent Statement, showing that the balance of the rent arrears had now increased to £2,850 and that no further payments had been made by the Respondent meantime. Written representations were also submitted on behalf of the Applicant, confirming that no payments had been made by the Respondent since 8 August 2025 and that, since then, two further monthly rental payments due on 1 September and 1 October 2025 had also not been paid.
13. No response was received from the Respondent within the time limit stated, either to the Tribunal's Direction and further requests, nor in response to the further representations lodged on behalf of the Applicant, all of which had been circulated to him by the Tribunal. There had been no contact with the Tribunal from the Respondent since his attendance at the last Evidential Hearing on 8 August 2025.
14. In the circumstances, the Tribunal has now further considered the application in view of the further submissions from the Applicant's representative and the continuing lack of response from the Respondent and has determined that there was no requirement for a further hearing to be convened. Accordingly, the Tribunal decided to determine the application without a further hearing in terms of Rule 18 of the Procedure Regulations.

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 18 October 2021.

3. The rent due in respect of the tenancy is £475 per calendar month.
4. The Respondent's payments towards rent had become very erratic, with no payments made during 2024 until 4 October 2024 when £950 was paid and then a further £775 on 17 November 2024, just prior to the CMD on 19 November 2024.
5. When Notice to Leave was served on the Respondent in April 2024, arrears amounted to £2,850, which had increased to £3,325 when this application was lodged in June 2024 and to £4,750 before the payments narrated in the paragraph above were made.
6. Arrears had decreased to £3,975 by the date of the CMD on 19 November 2024, to £3,375 by the first Evidential Hearing on 10 February 2025, and to £3,375 by the second Evidential Hearing on 29 April 2025.
7. A payment order against the Respondent was granted in the conjoined payment application at the hearing on 29 April 2025.
8. No further payments towards rent or the arrears were made for the months of June, July or August 2025 and arrears had increased to £3,900 by the date of the third Evidential Hearing on 8 August 2025.
9. During the course of the hearing on 8 August 2025, the Respondent transferred the sum of £2,000 direct to the Applicant, reducing the outstanding balance to £1,800 and stated the intention to pay a further £1,000 the following day.
10. No further payments have been made by the Respondent after 8 August 2025 and arrears now amount to £2,850, the rental payments due for September and October 2025 both having been missed.
11. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by email on 15 April 2024, in accordance with the terms of the tenancy agreement.
12. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 16 May 2024.
13. The Tribunal Application was submitted on 10 June 2024.
14. The Respondent has remained in occupation of the Property.
15. The Respondent had been in arrears of rent for three or more consecutive months when the Notice to Leave was served and is still in significant arrears.
16. 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.

17. The Applicant has sought to engage with the Respondent throughout concerning the rent arrears and issued several communications to him in respect of the 'pre-action protocol'.
18. The Respondent has not engaged properly with the Applicant regarding the arrears situation nor sought to properly address the arrears or maintain his regular monthly rental payments.
19. 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.
20. The Respondent attended the CMD and the third Evidential Hearing and admitted the rent arrears but opposed the eviction application.
21. The Respondent has provided explanation for the arrears and his lack of engagement with the Applicant and the Tribunal but stated that he wished to resolve same, intended to make further payments and retain the tenancy.
22. The Respondent has since failed to do so, has failed to comply with any of the Tribunal's Directions issued throughout the process, nor otherwise engaged with the Tribunal since the last Evidential Hearing.
23. The Respondent has not lodged any supporting documentation in respect of his position nor contested any of the evidence put forward by the Applicant.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation; the oral information provided at the CMD on behalf of the Applicant and the evidence from the Applicant himself at the three Evidential Hearings which have taken place; the oral information provided by the Respondent at the CMD and his evidence at the third Evidential Hearing; the further oral submissions made, and supporting documentation lodged, on behalf of the Applicant; and the whole procedural background to this application.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the requisite period of notice (28 days) 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 had regard to all the Rent Statements lodged on behalf of the Applicant and noted the very erratic nature of the payments made by the Respondent throughout the whole of 2024 and during 2025 to date. In particular, it was noted that no payments towards rent or arrears were made during 2024 until October 2024 and again during June and July 2025 or during

September and October 2025. Arrears had amounted to their highest point of £4,750 by September 2024 and, although payments had then resumed for a period of time, from June 2025 onwards the only payment made was £2,000 made during the Evidential Hearing on 8 August 2025 and the arrears outstanding are still significant, amounting to £2,850. The monthly rent is £475 so the arrears currently amount to the equivalent of 6 months' rent. The Tribunal tends to agree with the Applicant's position stated throughout these proceedings that the Respondent has not made sufficient effort to address the rent arrears situation, nor even maintain his monthly rental payments and that the timing of the payments he has made appear to coincide with the Tribunal hearings. The Respondent has lodged no written representations with the Tribunal and, although he attended both the CMD and the third Evidential Hearing and addressed the Tribunal at length at that hearing, the Respondent has not complied with any of the Tribunal's Directions issued throughout the process, nor followed up his stated intentions to resolve matters and make further payments to the Applicant. The Tribunal noted the Respondent's explanations in respect of these matters and considered that he was genuine in his assertions regarding the mental health issues and other difficulties he has been experiencing in recent years. He was articulate and appeared to have insight regarding the effects of his mental health on his ability to manage his tenancy and his rent payments and also to be aware that he needed to seek help himself in relation to these matters. It was for this reason that the Tribunal considered it appropriate not to make an eviction order at the Evidential Hearing on 8 August 2025, but rather to provide the Respondent with a final opportunity to seek the help that he required and to demonstrate to the Tribunal that he had done so, and that he was taking steps to further address the rent arrears situation. The Tribunal explained its intentions to the Respondent at that hearing, provided him with information as to where he could seek assistance on his housing and debt situation and also made a welfare referral in respect of the Respondent immediately following the hearing, given the Tribunal's concerns as to his current mental health. This information was reiterated in the detailed Notes on the Hearing issued to parties following the hearing. Despite this, it was noted by the Tribunal that the Respondent had not further engaged with the Tribunal since and had not complied with the Tribunal's Direction dated 8 August 2025, despite a reminder and further request being issued to him on 16 and 30 September 2025. Nor had the Respondent made the further payment he had stated he would make to the Applicant the day following the hearing or indeed, any further payments towards rent or the arrears since. The Tribunal considered that the Respondent has already had ample opportunity to engage with the Tribunal and address the arrears situation. He has provided no explanation for his further failure to do so. In these circumstances, the Tribunal did not consider it appropriate to provide the Respondent with any further time nor to delay these proceedings any further.

4. As the Respondent had been informed at the Evidential Hearing on 8 August 2025, and subsequently in writing, the Tribunal accordingly decided to determine the matter without a further hearing in terms of Rule 18 of the Procedure Regulations which states as follows:-

“Power to determine the proceedings without a hearing

18.—*(1) Subject to paragraph (2), the First-tier Tribunal—*

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.”

5. The Tribunal was satisfied that the ground for eviction was met. The rent had been in arrears for more than three consecutive months when notice was served and this had remained the position throughout these proceedings. The rent had, in fact, been in arrears continuously, to some extent, since around August 2023 and the current arrears outstanding remain significant. The Tribunal was satisfied from the supporting documentation produced and from the submissions by and on behalf of the Applicant, that he had sought to engage with the Respondent regarding the arrears and had issued the required correspondence to him in respect of the ‘pre-action protocol’. Although the Respondent was in receipt of benefits, there was no indication that he was awaiting payment of benefits or that benefits issues had contributed to the arrears situation. The Respondent had been quite candid in confirming the amount of monthly benefits received currently was around £1,250 and that he had the means to pay his rent and had a relatively large credit balance in his bank account, which had allowed him to make a payment of £2,000 direct to the Applicant in the course of the hearing on 8 August 2025 and to make the offer to pay a further £1,000 the following day.
6. As to the reasonableness of granting an eviction order, the Tribunal weighed all the factors concerning the Respondent, as narrated above against the factors put forward by, and on behalf of, the Applicant, also narrated above. The Applicant had addressed the Tribunal himself at the Evidential Hearings and the Tribunal considered him credible and genuine in what he had stated, not just regarding the impacts of the rent arrears situation on his financial position, but also how the situation with the Respondent, and the Respondent’s health difficulties and conduct had negatively impacted on the Applicant personally and caused him stress and anxiety over a long period of time. The Applicant had provided all the information required of him by the Tribunal

throughout the Tribunal proceedings and complied with all of the Tribunal Directions. The Applicant had been trying to manage the situation with the Respondent and the rent arrears for over two years and his application to the Tribunal had been lodged well over a year ago, in June 2024. He appeared to have had direct contact with the Respondent for much of this time and to have been sympathetic to the difficulties being experienced by the Respondent. However, the Tribunal noted that he had found this and the process so stressful and protracted that he no longer wished to be a landlord at all. He has financial concerns regarding the rent arrears situation and has had for some time, due to the erratic nature of payments being made and the general uncertainty of the situation. The Applicant also cited concerns regarding the condition of the Property. None of the information presented by the Applicant was contested by the Respondent and he apologised several times during proceedings to the Applicant in respect of the situation. The Tribunal had no evidence before it to suggest that he was seeking any assistance with his health or situation or that the Respondent's pattern of behaviour would change. The Tribunal accepted the Applicant's assertion that the situation was untenable and that, in all the circumstances, the balance of reasonableness was in favour of the Applicant. The Tribunal accordingly determined to grant the eviction order, bringing this matter to a conclusion and allow the Applicant to recover the Property. The Tribunal determined that an order for eviction could properly be granted at this stage of the proceedings, under Rule 18, and that there was no necessity to adjourn the application to a further Evidential Hearing. The Respondent did not contest any of the pertinent facts and had fully admitted the arrears. He had been given the opportunity to make any further written representations, lodge any supporting documentation in respect of his own position and to properly address the arrears situation but had failed to do so.

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.

N.Weir

Legal Member/Chair

Date 27 October 2025

