



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”)

Chamber Ref: FTS/HPC/EV/25/2279

Re: Property at 31 Shand Lane, Carlisle, Lanarkshire, ML8 5RN (“the Property”)

Parties:

Mrs Kinga Juhasz, Mr Thomas Dillon, 25 St Phillips Avenue, Eastbourne, East Sussex, BN22 8LU (“the Applicant”)

Ms Gillian Logan, 31 Shand Lane, Carlisle, Lanarkshire, ML8 5RN (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member) and Elaine Munroe (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that that an eviction order should be granted in favour of the Applicants against the Respondent. The Tribunal delayed execution of the order until 30 January 2026.

1. An application was received on 27 May 2025 from the Applicants under Rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (‘the 2017 rules’) seeking recovery of the property under Ground 12 (rent arrears) as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form were:
 - (i) Paper apart setting out further details about the application.
 - (ii) Copy private residential tenancy agreement between the parties, which commenced on 28 June 2024.
 - (iii) Copy Notice to Leave dated 7 November 2024 citing ground 12, and stating the date before which proceedings could not be raised to be 8 December

2024, together with covering email addressed to the Respondent dated 7 November 2024.

- (iv) Rent statement showing the Respondent's outstanding rent arrears to be £789 as at 28 April 2025.
 - (v) Copy notice to South Lanarkshire Council under section 11 of the Homelessness etc. (Scotland) Act 2003, together with covering email dated 27 May 2025.
 - (vi) Copy pre-action requirements emails sent by the Applicant's letting agent to the Respondent dated 14 and 20 August, 6 November and 30 December 2024.
 - (vii) Email correspondence between the Respondent and the Applicants' letting agent regarding a payment plan for the arrears.
 - (viii) Email correspondence dated between 29 April and 15 May 2025 between the Applicant's letting agent and Money Matters at South Lanarkshire Council, on behalf of the Respondent regarding a possible rent reduction.
3. The application was accepted on 29 June 2025.
4. Notice of the case management discussion (CMD) scheduled for 19 November 2025, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the Tribunal on 14 October 2025. The Respondent was invited to submit written representations by 30 October 2025.
5. Written representations were received from both the Applicants and the Respondent on 11 November 2025.

The case management discussion

6. A CMD was held by teleconference call on 19 November 2025 to consider the application). The second Applicant, Mr Thomas Dillon, was present on the call and represented the Applicants. The Respondent was present on the call and represented herself.

Submissions by the Applicants

7. Mr Dillon asked the Tribunal to grant an eviction order in favour of the Applicants against the Respondent. She had gotten into arrears early in her tenancy, and had worked hard to pay these off. The arrears were £789 at the time of the application, which may have been manageable. The parties had agreed a repayment plan on two occasions, but the Respondent had not adhered to these.

8. The Respondent's circumstances had then changed. Money Matters had contacted the Applicants on her behalf in April/May 2025 to say that she was no longer able to afford the £850 monthly rent. They had requested a reduction to £650 per month. The Applicants had asked whether the proposed reduction was being requested on a temporary or permanent basis. They were told that it was a permanent proposal. When they had asked for an affordability calculation, Money Matters had said she could afford £692 per month.
9. The Applicants were sympathetic to the Respondent's circumstances. They had considered her proposal to reduce the rent, but concluded that they were not in a position to accept it given their own financial situation. If they agreed to the reduction, she would be repaying the arrears out of the money she would save on the rent, but would not be paying anything towards the rent herself. It was inevitable that the Respondent would continue to get further behind with the rent as time went on.
10. The Respondent had received three discretionary housing payments of £400 from the Council in July and September 2025. These were supposed to be paid to the Applicants on top of payments towards the rent, totalling £1250 per month (£450 from universal credit plus £400 discretionary housing payment plus £400 from the Respondent herself), but the Respondent had instead used them to pay towards the rent. As a consequence, the arrears had now doubled since the application was made. The Respondent now owed rent arrears of £1589 to the Applicants.
11. The Applicants own a small recruitment business specialising in construction industry jobs. Due to a downturn in the industry, their financial position has changed significantly. The second Applicant, Ms Juhasz, is now working full time in a book wholesale warehouse as well as part-time for the business.
12. The Applicants have 3 children aged 16, 13 and 9. They bought the property in 2020 to give them a regular income to support their family, including helping to pay for their children's school expenses. The total costs of school travel and meals for the children are approximately £3,050 per school year.
13. The Applicants have a mortgage over the property which costs £127 per month, as well as letting agent fees, tax and repairs costs. While the Applicants appreciate that the Respondent's circumstances are difficult, they are not in a position financially to reduce the rent. They therefore need to find a tenant who is able to pay the monthly rent for the property.

The Respondent's submissions

14. The Respondent accepted that she had been in arrears early in her tenancy, but she had made efforts to repay these. She admitted that she had not kept to the agreed repayment arrangement. She had then got further into arrears because she had to give up her job due to ill health. She has various health conditions. These include spina bifida -which she has had since birth and which causes her pain and affects her mobility as well as her bowel and bladder- as well as endometriosis and anxiety and depression.
15. She was now in receipt of universal credit and disability living allowance. Universal credit pays £450 towards her rent each month and she needs to find the remaining £400 herself.
16. She said that she had stopped paying the rent around July 2025 because she was withholding it due to the need for various repairs to be carried out. She was particularly concerned about the safety of the windows in the front bedroom. These are locked and she has been unable to use them since moving into the property as the keys were missing. There were a number of other repairs which she had reported and which had not been carried out. She had informed the Applicants' letting agent verbally in July 2025 that she was withholding the rent until the required repairs were carried out. She had not kept the withheld rent aside however, as she had to use it to cover various bills.
17. The Respondent said that she had not in fact wanted a permanent rent reduction, just a temporary reduction to allow her to pay back the arrears. The Applicants had refused this.
18. She accepted that she owed rent arrears to the Applicant, and had been in arrears for more than three consecutive months. She confirmed that the arrears were not due to a delay of failure in the payment of benefits.
19. She said that she wanted to leave the property as she was unable to afford the rent. She considered that the rent was high compared to other rental properties in the area. There were others advertised locally at a rent of £650 per month.
20. The Respondent lives in the property with her 11 year old daughter, who attends a local primary school. She has always lived in Carlisle and her mother lives nearby, but she would like to move out of the area. She has recently applied for another property in Lesmahagow.
21. The property is on two floors, which is not accessible for her. She would like to move somewhere which is all on one level, and more suitable for her health

needs. She had not been in touch with the council regarding alternative housing, but understood that the council would not process a housing application until she has an eviction order. She had looked at other private properties but the rents are high and they are not accessible.

22. She said that did not wish to oppose the application. She was agreeable to an eviction order being granted so long as she was given sufficient time to find somewhere else.

Further submissions for the Applicants

23. Mr Dillon disputed that there were unresolved repairs issues. He said that the Respondent had not notified the letting agent of repairs and that there had been difficulties in obtaining access for contractors (which the Respondent vehemently denied). He said that the Applicants were only informed that the Respondent was withholding rent around a month ago.

24. He also disputed that the rent for the property was higher than that for other rental properties in the area. Having done some research, however, the Applicants believed that the rent was set at the market rate. While it may be a bit more expensive than other rental properties in the area, it had an extension and was larger than these other properties.

Findings in fact

25. The Tribunal made the following findings in fact:

- The Applicants are the owners and registered landlords of the property.
- The parties entered into a private residential tenancy agreement which commenced on 28 June 2024.
- The rent payable under the tenancy agreement is £850 per calendar month, payable in advance on the 28th day of each month.
- The Notice to Leave was validly served on the Respondent by email on 7 November 2024.
- The Respondent had been in rent arrears for more than three consecutive months as at the date of the CMD.
- The Applicants have complied with the pre-action requirements.
- The Applicants have a mortgage over the property.
- The Applicants own no other rental properties.
- The Applicant have three dependent children aged 16, 13 and 9.

- The Respondent's being in arrears of rent over the period in question is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
- As at the date of the CMD, the Respondent owed the Applicants £1589 in rent arrears.
- The Respondent lives in the property with her 11 year old daughter.
- The Respondent is in receipt of universal credit, which pays £450 per month towards her housing costs, and Disability Living Allowance.

Reasons for decision

26. The Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties.
27. The Tribunal considered whether Ground 12 (rent arrears) had been met. Ground 12 states:

Rent arrears

12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2)

(3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

(a) for three or more consecutive months the tenant has been in arrears of rent, and

(b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.

(4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider—

(a) whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit , and

(b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.

28. The Tribunal noted from the updated rent statement provided by the Applicants that, while the amount owed had fluctuated over time, the Respondent had been in rent arrears for more than three consecutive months at the date of the CMD. The Respondent did not dispute this.
29. The Tribunal then considered whether it was reasonable to issue an eviction order in all the circumstances of the case. In doing so, it took into account all of the evidence before it.
30. The Tribunal noted that the Applicants had sent several pre-action letters to the Respondent prior to making the application. They had accordingly complied with the pre-action requirements. The Tribunal was also satisfied that the arrears were not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
31. The Tribunal noted that it was apparent from the parties' evidence that there may have been issues of communication between the Applicants and their letting agent. This was not an issue for the present Tribunal to consider. While the Respondent said that she had been withholding the rent for some months, she had not in fact put this rent aside.
32. The Tribunal noted that the Applicants rely on the rent from the property as a source of regular income, and that their financial circumstances are currently difficult. They have three dependent children to support. They have no other rental properties, and have a mortgage over the property. The mortgage payments are relatively modest given the level of rent charged. The Applicants are also incurring other costs in connection with the property.
32. The Tribunal considered the Respondent's personal circumstances. She has been living in the property for around 17 months and has been in some level of arrears for almost all of that time. She currently owes the Applicants £1589 in rent arrears. Her arrears have been relatively low throughout her tenancy, although it seems inevitable that they will continue to increase given her current circumstances. Her financial circumstances have changed due to her ill health, which has made it difficult for her to afford the ongoing rent payments. She has several serious health conditions which mean that she is no longer able to work. She has an 11 year old daughter who lives with her and who attends school in the local area.
32. The Tribunal gave particular weight to the fact that the Respondent had not opposed the application, and had said that she wished to leave the property. It also gave weight to the fact that she can no longer afford the monthly rental payments and that she requires a property that is more suitable for her health and mobility needs. If an eviction order is granted, this may help her to secure more suitable council accommodation.

33. The Tribunal decided that in light of all the above considerations, it was reasonable in all the circumstances to grant an order for eviction in favour of the Applicants against the Respondent.
34. Before deciding to grant the order, the Tribunal had sought the views of both parties on the possibility of delaying execution of the eviction order in terms of rule 16A of the 2017 rules, given the upcoming Christmas period, and to give the Respondent more time to find suitable alternative accommodation.
35. The Respondent asked for a date at the end of January. She was hopeful that the Council would have found her somewhere to live by then, and said that she would continue to pay the rent in the meantime. The second said that the Applicants would be content with that suggested timescale.
36. Having taken into account the views of the parties on delaying execution of the order, the Tribunal considered that it would be reasonable in all the circumstances to delay execution of the order until 30 January 2026.

Decision

The Tribunal grants an order in favour of the Applicants against the Respondent for recovery of possession of the property. The Tribunal delays execution of the order until 30 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.

Sarah O'Neill

Legal Member/Chair

20 November 2025

Date

Sarah O'Neill