



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71 of the Private Housing
(Tenancies)(Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/24/4706

Re: Property at 3 Wood Street, Greenock, PA16 7SS (“the Property”)

Parties:

Mr Mark Taylor, Mrs Sheila Taylor, Fresh Creek, Wemyss Bay Road, Wemyss Bay, PA18 6AD (“the Applicant”)

Mr Hendrik Ockert Van Der Westhuizen, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be made.

Background

1. The background to the case is laid out in the Case Management Discussion Note dated 20th June 2025.
2. Subsequent to that Case Management Discussion (“CMD”) the Tribunal issued a Direction for the Respondent to lodge certain documentation and a Written Submission by 30th July 2025. The Applicant was then to be given time to reply. It was made clear in the CMD Note that if the time limit in the Direction was not adhered to documents or submissions submitted later will not be considered.
3. To date the Respondent has not lodged anything in response to the Direction.

4. The Tribunal received an email dated 20th November 2025 (the day before the Continued Case Management Discussion, and time stamped 22:07 as follows:

- **Subject:** Request to Submit Essential Evidence (Video + Photo Files) – Case Ref: FTS/HPC/CV/24/4706,
- Dear Housing & Property Chamber,
- I apologise that I was unable to submit my video and photo evidence 14 days before the hearing.
- The files were too large to send by post or email at the time, and my online reporting portal access was revoked by the letting agent after I submitted my final reports, making digital export impossible.
- All evidence is original, time-stamped, and was recorded during the tenancy, covering:
 - The kitchen/extension roof leak
 - Flooding
 - Ceiling collapse
 - Damp
 - Damage to belongings
 - Hazardous tiles
 - Safety risks affecting my children
- This evidence is essential for the Tribunal to understand the extent, duration, and seriousness of the disrepair.
- I respectfully request permission to submit all digital files via the Tribunal's preferred method (SharePoint link, secure email, or USB).
- Please advise on the method you wish me to use. I need guidance how to handle this
- Kind regards,
Hendrik Van Der Westhuizen

Continued Case Management Discussion

5. The Continued Case Management Discussion (“CCMD”) took place on 21st November 2025 by teleconference. The Applicant was represented by Miss Duncan of Neill, Clerk and Muray, Solicitors. The Respondent attended and represented himself.
6. The Chairperson confirmed the purposes of a CMD in terms of Rule 17 of the Rules, and also the overriding objective of the Tribunal in terms of Rule 2.
7. Miss Duncan asked that an order be granted for payment, in the amount of £5173.52, as per the rent statement previously lodged. She had previously confirmed that this included the rent increase which had been properly served on the Respondent, and also the final month had been modified on a pro-rata basis. She also previously confirmed that £950 had been received by way of return of the deposit, and that had been applied to the rent arrears balance, before reaching the figure of £5,173.52.

8. The Chairperson asked the Respondent why he had not complied with the Direction. He said that he had sent a full package of evidence to the Tribunal before the last CMD and it had got stuck in the mailroom. The Chairperson said that she did not recall him mentioning that at the previous CMD, nor was it in the CMD Note. He said that he had tried to send documents on other occasions but had been unable to do so. He needed guidance on how to submit the videos and photographs. The Chairperson pointed out that the Direction was very clear in what he had been asked to provide, which included a Written Statement, which he could have prepared in a word document and attached to an email, as could the various emails that he had said he wished to lodge.
9. The Respondent outlined his reasons for withholding rent, which were much the same as he had outlined at the previous CMD. However, he provided no explanation as to why he had not submitted them in a Written Statement in line with the Direction.

Findings in Fact

- i. The parties entered in to a tenancy agreement for rent of the property;
- ii. The monthly rent was £950, rising to £1200 in September 2024;
- iii. Rent increase notice was served correctly;
- iv. At the end of the tenancy the rent arrears owed, after deduction of the deposit were £5173.52.

Reasons for Decision

10. The issue regarding the rent increase notice was resolved at the previous CMD, with the Respondent accepting that it was valid.
11. The Respondent did not comply with the Direction issued on 20th June 2025, which directed him to lodge, by 30th July 2025, a Written Submission containing firstly, a paragraph with details as to why the rent calculation is not accepted and how the Respondent has reached a different figure and secondly, full details of the allegations being made regarding repairs to justify the Respondent's request for a rent reduction, to lodge Documents, being copy letters or emails and the like to support the allegations made in the Written Submission, to lodge a calculation of the rent the Respondent thinks he is due to pay in the form of a rent statement with columns for rent due, rent paid and running balance of arrears.
12. The Direction made clear why the information was required, and why the time scale had been set by stating

The Direction is being issued to show parties what the Tribunal requires to allow it to focus the matters in dispute.

The Respondent is required to lodge his submission by 30th July 2025 and the Applicant is required to lodge his submission by 30th August. This will allow the Applicant to have fair notice of the Respondent's position and to be able to answer it. The Respondent must comply with the time limit to ensure fairness.

13. The Respondent has not complied with the Direction and has not provided a credible explanation as to why not. There was no reason why documents could not be submitted as attachments to emails to the Tribunal., the Respondent has managed to do that before. Photographs and videos were not included in the Direction. The Respondent chose not to contact the Tribunal regarding the documents until the last evening the day before the CCMD, even although there had been a gap of five months between the CMD and the CCMD when he could have done so.
14. In making the decision to grant the Order for payment as sought by the Applicant the Tribunal had regard to the overriding objective to deal with the proceedings justly.
15. The Tribunal sought to ensure that the parties were on an equal footing procedurally and were able to participate fully in the proceedings, including assisting any party in the presentation of the party's case without advocating the course they should take by setting out in the CMD Note and the Direction exactly what was required of the parties and the reason why. It was made clear that if the Direction was not adhered to documents would not be considered.
16. At the CCMD the Tribunal considered paragraph (2)(e) which is avoiding delay, so far as compatible with the proper consideration of the issues. The respondent was given ample opportunity, and guidance, in how to set out his case but he failed to do so. He had failed to comply with a Direction timeously on a previous occasion. He only contacted the Tribunal in the late evening the day before the CCMD. It would not be fair and just to the Applicant to continue the matter again in these circumstances and the Tribunal decided to grant the Order.

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.

Alison Kelly

21st November 2025

Legal Member/Chair

Date