

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (Act)

Chamber Ref: FTS/HPC/EV/25/1120

Re: Property at 1/1, 35 Morar Drive, Paisley, PA2 9BB (“the Property”)

Parties:

NAM Real Estate Ltd, 3 Garrity House Miners Way, Aylesham, Canterbury, Kent, CT3 3BF (“the Applicant”)

Lyndsey Richardson, 1/1, 35 Morar Drive, Paisley, Renfrewshire, PA2 9BB (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted but that execution of the order should be postponed to 10 January 2026.

Background

This is an application under Rule 109 and section 51(1) of the Act for eviction and recovery of possession on Ground 12 of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 12 March 2025;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 28 February 2023;
3. Notice of change of landlord dated 2 September 2024;
4. Notice to Leave dated 31 January 2025 served by Sheriff Officer on the same date;
5. Section 11 Notice to Local Authority served by email dated 12 March 2025;

6. Rent Arrears Statement;
7. Pre Action Correspondence;
8. Sheriff Officers Certificate of Service of CMD Notification on the Respondent dated 15 April 2025;
9. Applicant Representative's written submissions dated 11 June 2025;
10. CMD Note of 16 July 2025.

Case Management Discussion (CMD)

The case called for a CMD by telephone on 2 December 2025. The Applicant did not participate but was represented by its lawyer, Mr Smart. The Respondent participated and represented herself.

Mr Smart confirmed that the Respondent was in rental arrears as at the date of the CMD in the sum of £5,680 taking into account the £30 payment made today.

The Applicant owns 8 rental Properties. There is a mortgage over this Property in respect of which the Applicant pays £229.23 per month and the balance outstanding is £47,625.

The Respondent informed the Tribunal that she wished to remain in the Property. She had lost her job and struggled with her mental health. She was on Universal Credit and had maintained the monthly rent payments since the last CMD on 16 July 2025. She had made a payment of £30 towards arrears today. She had not been able to make the payments towards arrears that she had proposed at the last CMD.

She lives in the Property on her own and has been in contact with the local authority.

Decision and Reasons

The Tribunal had regard to Ground 12 of Schedule 3 to the Act which provides:

Rent arrears

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

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

(a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant—

(i) is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and

(ii) has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and

(b) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

(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 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.

(5) For the purposes of this paragraph—

(a) references to a relevant benefit are to—

(i) a rent allowance or rent rebate under the [Housing Benefit \(General\) Regulations 1987 \(S.I. 1987/1971\)](#),

(ii) a payment on account awarded under regulation 91 of those Regulations,

(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,

(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,

(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.

The Tribunal then considered the documentary evidence it had received and Mr Smart's submissions. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 28 February 2023;
2. Notice to Leave had been served on the Respondent on 31 January 2025;
3. As at the date of service of the Notice to Leave the Respondent was in arrears of rent and had been in arrears for a continuous period of three or more consecutive months;
7. The Respondent is currently in arrears of £5,680 and lives in the Property on her own;
4. The rental arrears were not due to any delay or failure in the payment of a relevant benefit;
5. Section 11 notification had been served on the local authority;
6. The Respondent suffers from poor mental health;
7. The Respondent has offered but not complied with any payment plan;
8. The Applicant rents 8 Properties and has a mortgage over this Property in respect of which the Applicant pays £229.23 per month and the balance outstanding is £47,625.

The Tribunal was satisfied that Ground 12 had been established and it was reasonable to grant the application for eviction and recovery of possession given the significant rent arrears which continued to increase.

The Respondent has not provided any information to suggest why it would not have been reasonable to grant the order. The Tribunal considered that the considerable arrears and the failure to comply with payment plans meant that it was reasonable in the circumstances to grant the order sought.

The Tribunal weighed the competing interests of the Parties and determined that it was reasonable in the circumstances to grant the application for eviction and recovery of possession and to postpone execution of the order to 10 January 2026 under Rule 16A of the Tribunal Procedure Rules given the time of year.

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.

Alan Strain

2/12/25

Legal Member/Chair

Date