

Housing and Property Chamber

First-tier Tribunal for Scotland



Decisions with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 51 and 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Refs: FTS/HPC/EV/25/3129 and FTS/HPC/CV/25/3128

Re: Property at 2/3 36 Burnbank Road, Hamilton, South Lanarkshire, ML3 9AQ ("the Property")

Parties:

Mr Thierry Neyroud and Ms Michelle Dowling, 1 Ouse Lane, Towcester, NN12 6YJ ("the Applicants") and

Harper MacLeod LLP, The Ca'd'oro 45 Gordon Street Glasgow G1 3PE11 ("the Applicants' Representative") and

Mr Sam Clark, 2/3 36 Burnbank Road, Hamilton, South Lanarkshire, ML3 9AQ ("the Respondent")

and

Tribunal Members:

**G McWilliams- Legal Member
G Darroch - Ordinary Member**

Decisions in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determines as follows:

- 1) To grant an eviction order; and**
- 2) To grant an order for payment to the Applicants, Mr Thierry Neyroud and Ms Michelle Dowling, by the Respondent, Mr Sam Clark, of the sum of £9634.00.**

Background

- 1. These are Applications for an eviction order in terms of Rule 109 (Application for an eviction order) and for a payment order in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of The First-tier**

Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

Case Management Discussion on 24th November 2025

2. A Case Management Discussion (“CMD”) proceeded by remote teleconference call at 2.00pm on 24th November 2025.
3. The Applicants’ Representative’s Ms F Lombardi, attended. The Respondent, Mr Clark, did not attend and there was no explanation for his absence. The Tribunal had noted that Sheriff Officers had served the Applications’ papers, as well as notification details of the CMD, on Mr Clark by posting papers through the letterbox at the Property on 17th October 2025.
4. Ms Lombardi referred to the Applications and subsequent e-mails and documents which she had sent to the Tribunal’s office, including a rent statement dated 12th November 2025. Ms Lombardi stated that her office’s last contact with Mr Clark was through e-mail in June 2025, after the Notice to Leave (“NTL”) was served on him by sheriff officers on 1st May 2025. Ms Lombardi said that at that point the Applicants had asked Mr Clark to pay the then arrears of rent and then discuss arrangements for payment of rent going forward. She said that neither the Applicants, nor her office, heard further from Mr Clark. Ms Lombardi stated that Mr Clark has not paid any rent since June 2024 and that the current arrears of rent owing are now in the sum of £9,634.00. She said that she understands that Mr Clark remains resident in the Property. She stated that she is not aware of him having any medical conditions. She said that she understood that he had previously been in employment but does not know his current status in this regard. Ms Lombardi also said that she does not know whether or not Mr Clark has applied to South Lanarkshire Council for housing assistance. Ms Lombardi asked the Tribunal to grant an eviction order, with an enforcement date of 5th January 2026, as well as an order for Mr Clark’s payment to the Applicants of the current rent outstanding of £9,634.00.

Findings in Fact and Law and Reasons for Decisions

5. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) the Tribunal is to issue an eviction order under a private residential tenancy (“PRT”) if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
6. Schedule 3 (12) (1) to the 2016 Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
7. Section 71 of the 2016 Act provides as follows:
 - (1) In relation to civil proceedings arising from a private residential tenancy-
 - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
 - (b) a sheriff does not have competence or jurisdiction.

(2) For the purposes of subsection (1), civil proceedings are any proceedings other than-

- (a) the prosecution of a criminal offence,
- (b) any proceedings related to such a prosecution.

8. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicants) for an eviction order and order for payment of unpaid rent against a tenant (such as the Respondent) in respect of a tenancy such as the tenancy agreement of the parties.
9. Having considered all of the Applications papers and the submission of Ms Lombardi, the Tribunal find in fact that the Applicants have provided the Tribunal, in their Application for an eviction order, with copies of the parties' PRT, the NTL served on Mr Clark and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice which was intimated to South Lanarkshire Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. The NTL, and the Application for an eviction order, proceed in terms of Schedule 3 (12) (1) in the 2016 Act. The Tribunal further finds in fact that when the NTL was served on Mr Clark, on 1st May 2025, he had been in rent arrears for three consecutive months, and that when both Applications were lodged with the Tribunal's office, in July 2025, Mr Clark was in rent arrears of £8,054.00. Mr Clark has not paid rent to the Applicants since June 2024 and is currently in rent arrears in the sum of £9,634.00.
10. In making its findings in fact the Tribunal relied on the documentation within the Applications and, in particular, on the oral submission and written submissions of Ms Lombardi, the terms of which were consistent with the terms of the relevant documentation.
11. The Tribunal, in making their findings in fact, also placed reliance on the absence of any contradictory information or submissions from the Respondent, Mr Clark. The papers in respect of both Applications had been served effectively on him on 17th October 2025. He is aware of the important nature of the Applications but has not lodged any representations regarding their merits and the reasonableness of the grant of the orders sought. The Tribunal's office has not received any communications from Mr Clark or any representatives or advisers acting on his behalf.
12. Accordingly, the Tribunal find in law that the ground in Schedule 3 (12) (1) of the 2016 Act is met as the Respondent, Mr Clark, has been in rent arrears for three or more consecutive months and that it is reasonable that an eviction order be granted. The Tribunal also find in law that Mr Clark is obliged to pay rent to the Applicants, in terms of the parties PRT, and, having not done so consistently, is in rent arrears in the sum of £9,634.00. The Tribunal therefore find that the Applicants, Mr Thierry Neyroud and Ms Michelle Dowling, are entitled to an order for the Respondent Mr Clark payment to them of the sum of £9,634.00.

Decisions

13. Therefore, the Tribunal makes an order for eviction of the Respondent, Mr Sam Clark, from the Property at 2/3 36 Burnbank Road, Hamilton, South Lanarkshire, ML3 9AQ and, also, an order for payment to the Applicants, Mr Thierry Neyroud and Ms Michelle Dowling, by the Respondent, Mr Clark, of the sum of £9,634.00.

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.

Legal Member: G McWilliams

Date: 24th November 2025
