

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

Chamber Ref: FTS/HPC/EV/25/2895

Re: Property at 52 Earnock Street, Hamilton, ML3 9DZ (“the Property”)

Parties:

Kalsoom Kayani, 89 Hartland Road, Reading, RG2 8AE (“the Applicant”)

Mr William Stevenson, 52 Earnock Street, Hamilton, ML3 9DZ (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mrs H Barclay (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. This is a Rule 109 application whereby the Applicants are seeking an eviction order under ground 12. The Applicants’ representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 2nd February 2024 at a monthly rent of £575. The Applicants’ representative lodged a rent statement, copy correspondence between the parties, a note to leave with evidence of service, and a section 11 notice with evidence of service.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officer on 18th November 2025.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 14th January 2026. The Applicant was not in attendance and was represented by Ms Mann, Let Property Lettings Ltd. The Respondent was not in attendance.

4. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
5. Ms Mann said there has been no recent contact with the Respondent. The current arrears are £2592.80. The rent was increased from £375 to £550 in August 2024. The Respondent did not respond to the rent increase notice. A payment of £375 is made monthly direct from benefits, with an additional payment of £40.01 made each month. This leaves a shortfall which the Respondent has never paid. The Respondent does not respond to letters regarding the arrears. The Respondent reported some repairs required and entry was given to the Property in July for the purpose of assessing repairs. The Applicant instructed contractors but the Respondent has failed to liaise with the contractors so no repairs have been carried out.
6. The Applicant only lets this property. There is a mortgage on the Property and the Applicant is having to supplement the mortgage due to the full rent not being paid.
7. The Respondent lives alone at the two-bedroom Property. He is believed not to be in employment. Ms Mann said little else was known about the Respondent as he does not engage. Ms Mann said there had been no contact from the local authority.
8. The Tribunal adjourned to consider matters.

Findings in Fact and Law

9.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 25th August 2023 at a monthly rent of £375.
 - (ii) The monthly rent was increased to £550 on 23rd August 2024.
 - (iii) The Applicant has served a Notice to Leave upon the Respondent.
 - (iv) The Respondent has accrued rent arrears.
 - (v) The Respondent has been in rent arrears for three or more consecutive months.
 - (vi) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
 - (vii) It is reasonable to grant an eviction order.

Reasons for Decision

10. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if for three or more consecutive months the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that Ground 12 has been established.
11. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the Respondent was in rent arrears as a result of a delay or failure in the payment of a relevant benefit.
12. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. The landlord has complied with the pre-action protocol.
13. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
14. The Respondent has not paid the full shortfall between the old rental amount and the increased amount, since the rent was increased. A small sum is being paid each month over and above the £375, but it does not cover the full rent. The arrears are rising. The Respondent did not see fit to attend the CMD or make any representations to assist the Tribunal in considering reasonableness. The Tribunal was unable to assess the likely effect of an eviction order upon the Respondent in the absence of any representations. The Respondent has disengaged and is making no effort to pay the full rent or address the arrears. He has failed to address the arrears over a lengthy period despite the efforts of the Applicant. The Tribunal considered it likely that, if no order was granted, the arrears would continue to rise. The Tribunal considered the tenancy is not sustainable, and this may be due to the level of the housing element of benefits attributable to a sole occupant living in a two-bedroom property.
15. The Tribunal took into account the information provided regarding the Applicant's circumstances. The Applicant is entitled to receive rent for the Property, and is suffering financially as a result of the Respondent's non-payment of the full rent and arrears, as he has to supplement the mortgage on the Property.
16. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicants. It was incumbent upon the Respondent to attend or make representations to the Tribunal to indicate why an order should not be granted, and the Respondent

failed to do so. The Tribunal considered it was reasonable to grant the order sought.

Decision

17. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 16th February 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.

Helen Forbes

Legal Member/Chair

14th January 2026
Date