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/25/2955

Re: Property at 24 South Barrwood Road, Glasgow, G65 0EZ ("the Property")

Parties:

Mrs Natalia Kononova, Mr Jose Luis Cezon Garcia, 23 Fitzallan Place, Bathgate, EH48 2UN; 25 Fitzallan Place, Bathgate, EH48 2UN ("the Applicants")

Mr Martin Burrowes, 24 South Barrwood Road, Glasgow, G65 0EZ ("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, Ms Kononova was in attendance and was represented by Ms Simone Callaghan, TC Young. 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 Callaghan said the rent was increased to £600 per month in March 2025. The arrears are now £7425. The last payment of rent was a partial payment of £300 in February 2025. The Respondent had a low balance of rent arrears since October 2024. The Respondent has given various reasons for getting into arrears including family bereavements, the late payment of wages, bank account issues, and arrestment of his wages. The Applicants have attempted to assist the Respondent by agreeing to change the date of rent payments, by entering into payment plans, and by allowing the Respondent time to catch up with rental payments. The Respondent has failed to engage with the Applicants, and payment plans have not been adhered to. The Respondent previously said he would vacate the Property, but he was then advised by CAB not to do so and to stay until an eviction order was granted. There was an attempt by the Applicants to arrange mediation, but the Respondent failed to attend. It is not known if the Respondent is engaging with the CAB at this time.

6. The Applicants have eight rental properties. There is no mortgage on the Property, but the Applicants invested all their savings in this Property. The rental income is required as the main source of income of one of the Applicants. They are unable to sell the Property as they are in receipt of a grant for improvements which prohibits sale of the Property for a period of three years. The Applicants are saving towards their retirement. They expect to have financial commitments in respect of family in the near future. The Applicants are concerned that, if no order is granted, the arrears will continue to accrue and the Respondent will not be in a position to pay the rent or clear the arrears.

7. The Respondent lives alone at the Property. He has previously worked as a construction worker, earning £40,000 per annum. His current work situation is not known. In response to questions from the Tribunal regarding compliance with the pre-action protocol, Ms Callaghan said the Applicants have not issued the standard template in this regard, but they have attempted to assist the Respondent repeatedly.

Findings in Fact and Law

8.

(i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 2nd February 2024 at a monthly rent of £575.

(ii) The monthly rent was increased to £600 on 29th March 2025.

(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

9. 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.

10. 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.

11. 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. Although no pre-action correspondence was lodged, the Tribunal was satisfied on the evidence before it that the Applicants had assisted the Respondent in several ways, and had partially complied with the pre-action protocol.

12. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.

13. The Respondent has not paid rent since February 2025. The arrears are now substantial and 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 rent or address the arrears. He has failed to address the arrears over a lengthy period despite the efforts of the Applicants. 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

14. The Tribunal took into account the information provided regarding the Applicants' circumstances. The Applicants are entitled to receive rent for the

Property, and are suffering financially as a result of the Respondent's non-payment of rent and arrears.

15. 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

16. 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

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Legal Member/Chair

14th January 2026

Date