



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/EV/24/5076

Re: Property at 24 Grove Street, Denny, Stirlingshire, FK6 6PG (“the Property”)

Parties:

Mr Mohammed Riaz, 2 Emma's Way, Bonnybridge, Stirlingshire, FK4 1GF (“the Applicant”)

Ms Jade Scott, 24 Grove Street, Denny, Stirlingshire, FK6 6PG (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession of the property be granted.

Background

1. The application submitted on 5 November 2024 sought an eviction order against the Respondent on the grounds of rent arrears and was stated to be brought under Grounds 11 and 12A of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”). Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, Notice to Leave and a copy of a previous Order issued by the Tribunal dated 17 June 2024 against the Respondent in respect of rent arrears owed to the Applicant in the sum of £9,350. The tenancy had commenced on 2 June 2022 and the rent due in terms of the tenancy was £550 per month. The

Applicant stated in his application that the Respondent had paid no rent since 7 February 2023.

- 2 Following initial review, on 5 February 2025, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations, together with a formal Direction seeking further documentation/clarification from the Applicant in respect of preliminary issues noted in respect of his application. The Direction was also dated 5 February 2025 and was emailed to the Applicant on that date, with a covering letter explaining the position. The date stipulated for compliance with the Direction was 6 March 2025 but no response was received from the Applicant to the Direction.
- 3 Notification of the application and details of the CMD fixed for 17 July 2025 was served on the Respondent by way of Sheriff Officer on 28 April 2025. In terms of said notification, the Respondent was requested to lodge any written representations. No representations were received from the Respondent prior to the CMD.

Case Management Discussion – 17 July 2025

4. A Case Management Discussion (“CMD”) took place by telephone conference call on 17 July 2025 at 10am and was attended only by the Applicant, Mr Mohammed Riaz. The Respondent was given an additional 5 minutes to join the call late but she did not do so and the CMD proceeded in her absence.
5. Following introductions and introductory remarks by the Legal Member, Mr Riaz confirmed that the Respondent continues to reside at the Property and is still not paying rent. Reference was made to the Order lodged by Mr Riaz in connection with his application in the sum of £9,350 which was granted by the Tribunal in a separate application on 17 June 2024. Mr Riaz confirmed that the arrears are now much higher, as no further rent has been paid meantime, although he did not have an exact figure to hand. There was also discussion regarding the Applicant’s failure to respond to a previous Direction by the Tribunal dated 5 February 2025, which had been issued to him when the application was formally accepted. Mr Riaz had provided his explanation that he had not noticed the Direction and was therefore not aware of its terms. He had assumed everything was fine with the application as it was proceeding to a CMD.
6. There was further discussion regarding the points raised in the Direction. It was clarified by Mr Riaz that the application was intended to be brought under Ground 12, in respect of the three months’ consecutive rent arrears and in accordance with the terms of the Notice to Leave which had been served previously. The Legal Member confirmed that the application details would be noted as amended accordingly. The need for an up to date rent statement showing the background to the rent arrears, the balance owing when notice was served and the current outstanding balance was explained to Mr Riaz and he confirmed he would be able to prepare and lodge such a statement. There

was also discussion regarding the notice period Mr Riaz had given to the Respondent in terms of the Notice to Leave, which had appeared to the Tribunal to be one day short in terms of the legislation. Mr Riaz expressed concern about the length of time the application has already been ongoing and the further delay that may now be involved, especially given that the Respondent owes significant arrears and is still not paying anything to him. There was discussion regarding Mr Riaz's options in these circumstances and he was urged to seek some advice or guidance in the matter.

7. The outcome of the CMD was that the application was adjourned to a further CMD to take place by telephone conference call. This was to allow the Applicant an opportunity to seek advice and to respond to the Tribunal's Direction dated 5 February 2025 and lodge any further relevant documentation with the Tribunal.
8. A CMD Note reflecting the above discussions, together with a copy of the Tribunal's previous Direction were issued to both parties following the CMD. A further CMD was scheduled to take place on 12 December 2025 at 10am and both parties were notified of the details.
9. On 10 December 2025, the Applicant lodged further documentation with the Tribunal, including an updated Rent Statement, indicating that the amount of rent arrears outstanding now amounted to £19,250. The rent was continuing to be due at the rate of £550 per month and there had been no payments made by the Respondent since January 2023. Mr Riaz provided explanation for the late lodging of this paperwork. He stated that he had been awaiting a further report from the Sheriff Officers he had instructed in the matter and had also been ill. The Tribunal circulated a copy of his representations to the Respondent on that date.

Case Management Discussion – 12 December 2025

4. A further CMD took place by telephone conference call on 12 December 2025 and was attended only by the Applicant, Mr Mohammed Riaz. The Respondent was again given an additional 5 minutes to join the call late but she did not do so and the CMD proceeded in her absence.
5. Following introductions and introductory remarks by the Legal Member, Mr Riaz confirmed that the Respondent definitely continues to reside at the Property as the Property is still noted to have signs of occupation and he also had Sheriff Officers serve further paperwork on the Respondent recently. They reported that they had verified with neighbours and by other means that the Respondent was still resident. Reference was made to the updated Rent Statement lodged by Mr Riaz and it was noted that there have been no further payments made towards the rent or arrears by the Respondent since January 2023. Mr Riaz confirmed that the balance of rent arrears owed to him is now £19,250 which is extremely high. He also confirmed that he has never had any communication from the Respondent since she stopped paying rent and has no explanation from her. He requested that the Tribunal grant the eviction order sought today,

so that he can recover the Property and prevent any further rent arrears accruing.

6. The Tribunal Members conferred and confirmed that the Tribunal was satisfied that the ground for eviction was met and also that it was reasonable to grant the order in all of the circumstances. There was some brief discussion regarding the issuing of the decision documentation to parties, the applicable appeal period and procedure thereafter. Mr Riaz was thanked for submitting the further documentation which had been requested by the Tribunal and for his attendance at both CMDs.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 2 June 2022.
3. The rent due in respect of the tenancy was £550 per calendar month.
4. Rent arrears started to accrue in February 2023 and no rental payments have been made by the Respondent since January 2023.
5. The Respondent has not engaged with the Applicant regarding the rent arrears or offered an explanation for same.
6. On 17 June 2024, the Tribunal granted a Payment Order to the Applicant in the sum of £9,350 in respect of rent arrears outstanding.
7. A Charge for Payment was thereafter served on the Respondent by Sheriff Officers on 12 August 2024 in respect of the above Order but no payments have been made by the Respondent towards this debt.
8. Rent arrears amounted to more than £9,350 when Notice to Leave in this application was served on 10 September 2024 and now amount to £19,250.
9. Rent arrears are continuing to accrue at the rate of £550 per month.
10. The significant rent arrears are detrimentally affecting the Applicant's financial situation.
11. A Notice to Leave was served on the Respondent by Sheriff Officer on 10 September 2024.
12. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 8 October 2024.

13. The Tribunal Application was submitted on 5 November 2024.
14. The Respondent continues to reside in the Property.
15. The Respondent has been called upon to make payment of the rental arrears or enter into a satisfactory payment arrangement but has failed to do so.
16. The Respondent was in arrears of rent for three or more consecutive months when Notice to Leave was served and this remains the position.
17. There is no indication that the arrears have arisen wholly or partly as a result of a failure or delay in the payment of relevant benefits.
18. The Respondent did not submit any representations nor attend either of the CMDs nor otherwise engage with the Tribunal procedure.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers, including the application and original supporting documentation, the further supporting documentation lodged by the Applicant in response to the Tribunal's Direction and to the oral representations made at both CMDs by the Applicant.
2. The Applicant's further written representations of 10 December 2025 were lodged late in terms of the Procedure Regulations but the Tribunal was satisfied that the Applicant had provided a reasonable explanation for this and allowed the representations to be lodged late and taken into account.
3. The Tribunal found that the application was in order, that the eviction ground had been amended to Ground 12 only, in accordance with the Notice to Leave, that the Notice to Leave was served in the proper format and by Sheriff Officer and that the application was made timeously to the Tribunal, following expiry of the notice period, all in terms of the relevant provisions of the 2016 Act.
4. The Tribunal had initially raised with the Applicant an issue in respect of the notice period given to the Respondent in the Notice to Leave, which appeared to have been one day short in terms of the relevant provisions in the legislation Sections 54 and Sections 62(1)(b) and (4). The Notice to Leave was dated 9 September 2024 and the 'effective' date (the day following the end of the notice period) stated in the Notice to Leave was 8 October 2024. The notice period required in respect of Ground 12 is 28 days. Had the Notice to Leave been served on the Respondent by Sheriff Officer on 9 September 2024 (the date of the notice), sufficient notice would have been given. However, the Sheriff Officers had not served the Notice to Leave on the Respondent until the following day, 10 September 2024. Accordingly, the notice period was technically one day short. The Applicant had put forward submissions at the CMD on 17 July 2024 in respect of this matter. He had explained that he was dealing with this application himself and had found the paperwork and guidance

on the matter confusing. He stressed that this was a technicality with the Notice to Leave, that it had technically only been one day short and that, in any event, his Tribunal application following expiry of the notice period had not been submitted to the Tribunal until 5 November 2024, well after expiry of the correct notice period.

5. The Tribunal, however, considered the terms of the Upper Tribunal Appeal Decision in the case of Halcrow v Collins 2025UT68 dated 27 August 2025 which had been issued after the CMD on 17 July 2025. The Upper Tribunal had decided in that case as follows:-

“The failure of the notice to leave to correctly specify, in accordance with section 62(1)(b) of the Private Housing (Tenancies) (Scotland) Act 2016, the day on which the appellants expected to become entitled to make an application for an eviction order, is not an error which materially affects the effect of the document for the purposes of section 73. The notice to leave, and the application, are accordingly valid in this respect for the purpose of section 52(3).”

The Tribunal noted that, in the above case, the notice period had also been just one day short and that the decision contained discussion as to the factors the Tribunal should consider in determining whether such an error in the Notice to leave ‘materially affected’ the effect of the notice. The period by which the notice fell short was relevant, as was the date the eviction application was subsequently lodged with the Tribunal. The Upper Tribunal considered that, where the notice period was only very slightly short and where the application had not been lodged immediately on expiry of the period stated in the Notice to Leave and only after the correct notice period had expired, this should not be considered an error which ‘materially affected’ the effect of the Notice to Leave. The Tribunal accordingly considered the circumstances of this particular Notice to Leave and application. Having noted that the period of notice was just one day short, that the effective date stated in the notice should have been 9 September 2024 and that the application had not subsequently been lodged with the Tribunal until 5 November 2024, the Tribunal considered that the error here had not materially affected the effect of the Notice to Leave and was therefore persuaded that it should be considered valid.

6. The Tribunal then considered the ground of eviction relied upon in this application, namely Ground 12 and was satisfied in that all requisite elements of that ground had been met. The Tribunal was satisfied that there had been continuous rent arrears for well in excess of the period of three consecutive months required in terms of Ground 12 prior to the Notice to Leave being served. Arrears had amounted to in excess of £9,350 when Notice to Leave was served and arrears have continued to accrue at the rate of £550 per month. The current arrears amount to £19,250.
7. As to reasonableness, all the factors narrated above satisfied the Tribunal that it was also reasonable to grant an order in these circumstances and to do so at this stage. The Respondent had not entered into the Tribunal process and the Tribunal therefore had no material before it either to contradict the Applicant’s position or to advance any reasonableness arguments on behalf of the

Respondent. The rent arrears were significant. No payments had been made by the Respondent since January 2023 and the Respondent had neither engaged with the Applicant nor sought to deal with the rent arrears situation. There was no indication that the rent arrears were due to a delay or failure in payment of any benefits to the Respondent. Although the Applicant had not lodged any documentation in relation to the 'pre-action protocol' in respect of the eviction application, the Tribunal was satisfied that he had sought to engage with the Respondent regarding the rent arrears over a long period of time. In addition, the fact that the Applicant had already been granted a payment order in respect of rent arrears before lodging this application satisfied the Tribunal that the Respondent was well aware that she had failed to address the arrears. She was also well aware that the Applicant was seeking repossession as a consequence. Much of the documentation in this respect had been served on the Respondent by the Applicant by way of Sheriff Officer. Finally, it was noted by the Tribunal that the Applicant had served a Section 11 notification on the relevant local authority both when he first lodged this application and also more recently, on 30 October 2025, in advance of this CMD. In response to the latter Section 11 notification, the local authority had responded to the Applicant, confirming that they had noted the position and written to the Respondent in this regard. The Tribunal accordingly considered that the Applicant had done all that he reasonably could to bring these matters to the attention of the Respondent.

8. The Tribunal accordingly determined that an order for recovery of possession of the Property could properly be granted at the CMD and that there was no need for an Evidential Hearing.
9. The Tribunal's Decision was unanimous.

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.

Nicola Weir

Legal Member/Chair

12 December 2025
Date