



**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**

**Chamber Ref: FTS/HPC/EV/25/1834**

**Re: Property at 133 Crags Road, Lochfield, Paisley, PA2 6QY (“the Property”)**

**Parties:**

**KEP Property, 45 Causeyside Street, Paisley, PA1 1YN (“the Applicant”)**

**Mr Richard Porter, 133 Crags Road, Lochfield, Paisley, PA2 6QY (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Ms M Booth (Ordinary Member)**

**Decision**

**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 received in the period between 29<sup>th</sup> April and 4<sup>th</sup> June 2025, whereby the Applicant is seeking an eviction order under ground 12. The Applicant lodged a copy of a private residential tenancy agreement between the parties which commenced on 21<sup>st</sup> February 2020 at a monthly rent of £560, a rent increase notice, a notice to leave with evidence of service, a section 11 notice with evidence of service, and a rent statement.

**The Case Management Discussion**

2. A Case Management Discussion (“CMD”) took place by telephone conference on 19<sup>th</sup> December 2025. Mr Declan Fallon was in attendance on behalf of the Applicant. The Respondent was in attendance and represented by Ms Cojocaru of Paisley CAB.
3. Mr Fallon referred to an updated rent statement which had been lodged with the Tribunal. The Clerk circulated the rent statement to all present. The rent statement showed arrears in the sum of £4468.78. Mr Fallon said the

Applicant would ask the Respondent to pay the arrears in full and the ongoing rent, failing which they would seek an eviction order.

4. Mr Fallon said the Applicant has a mortgage over the Property. The failure to pay rent has caused financial difficulty. The Applicant has to subsidise the mortgage payments every month due to the non-payment of rent. The Applicant has considered selling the Property, but may not be able to do so due to a mortgage penalty. The Applicant would, therefore, wish to re-let the Property to a paying tenant. Mr Fallon said the Applicant had received direct payment of housing benefit, but this has stopped. Mr Fallon mentioned an ongoing criminal case involving an allegation of a hate crime by the Respondent's daughter, which meant the Applicant had been advised by the police and their solicitor not to have direct contact with the Respondent. The Applicant is a professional landlord.
5. Ms Cojocaru confirmed the Respondent was not opposing the order. The Respondent is not in a position to pay the arrears. The Respondent stopped paying rent after his benefits were switched when he began to receive the state pension. His housing benefit claim was rejected, and the CAB are now looking into this. The Respondent cannot leave the Property without an eviction order. Ms Cojocaru said the house does not meet the tolerable standard.
6. The Respondent said he would prefer to be in social housing, as no repairs have been carried out to the Property. He has made applications to the local authority and housing associations. He has been told he is likely to be accommodated in temporary accommodation initially. The Respondent is concerned that he cannot take his dog to temporary accommodation. The Respondent has health concerns and requires a property without stairs. The Respondent said he fell down the stairs in the Property. The Respondent said his daughter helps him, and he would like to be allocated a property close to her.
7. Ms Cojocaru said it may be helpful for the Respondent to have an extra couple of weeks before the eviction order can be executed.

### **Findings in Fact and Law**

8.
  - (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 21<sup>st</sup> February 2020 at a monthly rent of £560.
  - (ii) The Applicant has served a Notice to Leave upon the Respondent.
  - (iii) The Respondent has accrued rent arrears.

- (iv) The Respondent has been in rent arrears for three or more consecutive months.
- (v) The Respondent being in rent arrears may be as a result of a delay or failure in the payment of a relevant benefit.
- (vi) The Applicant has complied in part with the pre-action protocol.
- (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. It was mentioned that a change in benefit payment was responsible for the Respondent's arrears; however, the Respondent did not wish to oppose the order on that basis.
- 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. The Tribunal was concerned to see that the communication to the Respondent from the Applicant that was lodged with the Tribunal did not direct the Respondent to sources of advice. This omission was particularly concerning, coming from a professional landlord.
- 12. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
- 13. The arrears are substantial and rising. The Respondent is making no effort to pay the rent or address the arrears. 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. The Respondent does not wish to remain in the Property. The Property does not appear to be suitable for the Respondent's needs, as he requires a property without stairs. The Respondent will be accommodated by the local authority if an order is granted.
- 14. The Applicant is suffering financially as a result of the Respondent's failure to pay the rent and address the arrears.

15. The Tribunal considered it was reasonable to grant the order sought.
16. The Tribunal considered it was reasonable to delay execution of the order for a further period of two weeks in the hope that it will assist the Respondent in securing alternative accommodation.

#### **Decision**

17. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 3<sup>rd</sup> 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.**

# **Ms H Forbes**

**Legal Member/Chair**

**Date 19<sup>th</sup> December 2025**