

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)**

Chamber Ref: FTS/HPC/EV/25/2245

Re: Property at 19 Almada Grove, Hamilton, South Lanarkshire, ML3 0HB (“the Property”)

Parties:

MJMA Ltd, 62 Sherifoot Lane, Sutton Coldfield, West Midlands, B75 5DU (“the Applicant”)

Mr Ross Henderson, 19 Almada Grove, Hamilton, South Lanarkshire, ML3 0HB (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

BACKGROUND

1. By lease dated 21 June 2024 the Applicant let the Property to the Respondent.
2. The start date of the tenancy was 25 June 2024.
3. Rent is payable at the rate of £550.00 per calendar month.
4. A rental payment was made on 27 November 2024. Thereafter, no further rental payments were made by the Respondent to the Applicant.

5. The Applicant forwarded correspondence to the Respondent in relation to the rent arrears and in compliance with the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
6. A Notice to Leave dated 2 April 2025 was served upon the Respondent. The Notice to Leave intimated that an eviction order may be sought under ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") on the basis the Respondent was in arrears of rent over three consecutive months.
7. As at the date of service of the Notice to Leave arrears of rent amounted to £2,200.00.
8. The Applicant presented two Applications to the Tribunal, one seeking an order for eviction (EV/25/2245) and one seeking an order for payment of arrears of rent (CV/25/2257). As at the date of the applications to the Tribunal, arrears of rent amounted to £2,750.00.
9. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
10. On 19 November 2025 the Applicant's representatives submitted an updated rent statement to the Tribunal showing rent arrears of £6,050.00. The Applicants representatives sought to amend the amount claimed in the payment action to £6,050.00.

THE CASE MANAGEMENT DISCUSSION

11. The Applicant was represented at the Case Management Discussion by Miss Capaldi of Bannatyne Kirkwood France and Co, Solicitors. The Respondent did not participate in the Case Management Discussion. The Respondent had telephoned into the Tribunal, apparently with a view to participating. The Applicant appears to have lost his telephone connection. He telephoned again. He again lost his connection again. The Tribunal, after convening, was advised that the Respondent had called in but was no longer online. The Chairperson of the Tribunal indicated that he would delay the commencement of proceedings to afford the Respondent a further opportunity to call in to enable him to participate. He did not do so. The Chairperson of the Tribunal thereafter requested the Clerk of the Tribunal to telephone the Respondent. The Respondent's telephone went to an answering machine. The Respondent did not, thereafter, call in to participate in the proceedings.
12. In the circumstances, the Respondent was clearly aware of the proceedings. The Tribunal separately had a certificate of intimation by Sheriff Officers confirming that the proceedings had been intimated to the Respondent. In the

circumstances, the Tribunal proceeded with the Case Management Discussion in the absence of the Respondent.

Eviction

13. Miss Capaldi moved the Tribunal to grant an Order for eviction.
14. Miss Capaldi advised the Tribunal that rent arrears, in fact, now amounted to £6,600.00. That was exactly 12 months unpaid rental payments.
15. In relation to the Respondent, Miss Capaldi was not aware of any contact between the Respondent and the Applicant for a significant period of time. The Respondent is the sole occupant of the Property. The Applicant is aware that, as of November 2024, the Respondent was in employment. It is not known whether he is still in employment as there has been no contact between the Respondent and the Applicant since then.
16. There are no children residing at the Property. There are no known medical conditions affecting the Respondent. There is no information to suggest that any failure to pay rent is due to any delay or failure in the payment of any relevant benefits.
17. On the basis of the information before the Tribunal the Tribunal determined that it was reasonable to grant an order for eviction.

Rent Arrears

18. Miss Capaldi moved the Tribunal, in relation to the payment action, to amend the amount claimed to £6,050.00 and requested a payment order in that amount with interest thereon at the rate of 4% per cent per annum.
19. While the arrears of rent have now increased again, due to a further missed rental payment, on the basis the amendment request previously submitted to the Tribunal was restricted to the amount of £6,050.00, Miss Capaldi moved the Tribunal to amend the amount claimed to that amount. The Tribunal, in the circumstances, allowed that amendment and thereafter granted a payment order in that amount. The Tribunal ordered that interest is paid thereon at the rate of 4% per cent annum.

FINDINGS IN FACT

20. The Tribunal found the following facts to be established:-
 - a) By Lease dated 21 June 2024 the Applicant let the Property to the Respondent.
 - b) The start date of the tenancy was 25 June 2024.
 - c) Rent is payable at the rate of £550.00 per calendar month.
 - d) A rental payment was made on 27 November 2024. Thereafter, no further rental payments were made by the Respondent to the Applicant.

- e) The Applicant forwarded correspondence to the Respondent in relation to the rent arrears and in compliance with the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
- f) A Notice to Leave dated 2 April 2025 was served upon the Respondent. The Notice to Leave intimated that an eviction order may be sought under ground 12 of Schedule 3 of the 2016 Act on the basis the Respondent was in arrears of rent over three consecutive months.
- g) As at the date of service of the Notice to Leave arrears of rent amounted to £2,200.00.
- h) A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
- i) The Respondent has been in arrears of rent for more than three consecutive months.
- j) The arrears of rent are not due to any failure nor delay in the payment of any relevant benefit.

DECISION

The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 of Schedule 3 to said Act.

Order not to be executed prior to 12 noon on 12th January 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.

Virgil Crawford

5th December 2025

Legal Member/Chair

Date

