



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for eviction/ possession of a Rented Property in terms of Rule 109 of the Procedure Rules.**

**Chamber Ref: FTS/HPC/EV/25/3186**

**Re: 1D Innes Park Road, Skelmorlie, PA17 5BA ('the Property')**

**Parties:**

**Raksha Parmar-Seers residing at 2 Campfield Road, Hertford, SG14 2AA ("the Applicant")**

**Adrianna Capaldi, Bannatyne, Kirkwood France & Co, Solicitors (The Applicant's Representative')**

**Darren Dale, 1D Innes Park Road, Skelmorlie, PA17 5BA ("the Respondent")**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")**

**Tribunal Members: Jacqui Taylor (Legal Member) and Gerard Darroch (Ordinary Member)**

## **1. Background**

1.1. The Applicant submitted an application to the Tribunal for eviction/ possession of the Rented Property under section 51(1) of the Private Housing Tenancies (Scotland) Act 2016, in terms of Rule 109 of the Procedure Rules.

1.2 The application was dated 24<sup>th</sup> July 2025. The application stated that the ground for eviction was as follows:

*'Rent Arrears - Ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016 The Applicants are the heritable proprietors of the Property and hold the landlord's interest in the tenancy agreement between the parties (the Tenancy Agreement). The Tenancy Agreement narrates only the First Applicant as the Landlord. As well as acting in her*

*own right, she was acting as an agent on behalf of the Second Applicant. Letter of consent by Anil Parmar is produced with this application. In terms of the Tenancy Agreement, the Respondent undertook to pay rent to the Applicants. The Respondent has fallen into arrears of said rent. The said rent arrears have existed for at least 3 consecutive months. A Rent Statement showing the payment history and arrears of rent is produced. In terms of Section 50 of the Private Housing (Tenancies) (Scotland) Act 2016 the Applicants served a Notice to Leave providing notice of their intention to raise an application for possession of the Property. The Notice to Leave is in force at the time of lodging this application. A copy of the Notice to Leave is produced. The Applicants by virtue of the Respondent being in arrears of rent are entitled to an Eviction Order relative to the Property by virtue of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 and Ground 12 of Part 3 of Schedule 3 of the said Act in that the Respondent has been in arrears of rent (by any amount) for a continuous period of three or more consecutive months. In terms of the Notice to Leave the Applicants have raised these proceedings for recovery of the Property under and in terms of Section 50 of the Private Housing (Tenancies) (Scotland) Act 2016 and Ground 12 of Schedule 3 of the said Act, and the Respondent has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months. The Respondent has been consistently in arrears for a period of not less than 3 consecutive months. Prior to raising these proceedings, the Applicants have complied with the applicable pre-action requirements. It is reasonable that an Eviction Order relative to the Property should be granted. The Applicants believe their right to rent in terms of the Tenancy Agreement will be seriously prejudiced should the Respondent continue to occupy the Property. They have therefore raised this application for recovery of possession. Page 8 In all the circumstances the Respondent is in breach of the conditions of the Tenancy Agreement. The Applicants are entitled to recover possession of the Property. In all these circumstances the Eviction Order sought is reasonable and accordingly should be granted.'*

1.3 Documents lodged with the Tribunal were:-

- Private Residential Tenancy Agreement between the parties dated 8<sup>th</sup> January 2024.

- A rent statement dated for the period 22<sup>nd</sup> November 2023 to 8<sup>th</sup> July 2025 to showing arrears of £3285.
- Notice to Leave dated 14<sup>th</sup> February 2025 advising the Respondent that an application for an eviction order on the ground that there has been rent arrears over three consecutive months will not be submitted to the Tribunal before 19<sup>th</sup> March 2025.
- A copy of an email dated 14<sup>th</sup> February 2025 to the Respondent sending him the Notice to Leave.
- A mandate by Anil Parmar dated 15<sup>th</sup> July 2025 authorising Raksha Parmar-Seers to act as the sole landlord.
- Section 11 Notice addressed to North Ayrshire Council.
- Email to North Ayrshire Council dated 24<sup>th</sup> July 2025 attaching the section 11 Notice.
- Copies of Pre action emails sent to the Respondent dated 12<sup>th</sup> and 26<sup>th</sup> November 2024 and 10<sup>th</sup> December 2024.

2. By Notice of Acceptance by Karen Moore, Convener of the Tribunal, dated 8<sup>th</sup> August 2025 she intimated that she had decided to refer the application (which application paperwork comprises documents received on 24<sup>th</sup> July 2025) to a Tribunal.

### **3.Case Management Discussion**

3.1 This case called for a conference call Case management Discussion (CMD) at 10.00 on 19<sup>th</sup> January 2026.

The Applicant's Representative attended the CMD.

The Respondent did not attend and was not represented.

The Respondent had been served with a letter advising him of the CMD by Andrew Richardson, Sheriff Officer on 24<sup>th</sup> November 2025. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

3.2 Ms Capaldi advised the Tribunal as follows:

3.2.1 The rent arrears as at 22<sup>nd</sup> December 2025 amounted to £4210.83.

3.2.2 She is seeking an eviction order on the basis that the rent has been in arrears over three consecutive months.

3.2.3 The Respondent was sent the preaction letters that have been produced but he has not engaged with her client.

3.2.4 The title of the property was transferred to the sole name of Raksha Parmar-Seers on 23<sup>rd</sup> December 2025 and Anil Pamer should be removed as an applicant as they no longer have an interest in the Property.

3.2.5 The tenant has had ample time to resolve the rent arrears but has not done so.

3.2.6 The Applicant is suffering financial hardship due to the rent arrears.

3.2.7 The Guarantor contacted the Letting agent and advised them that the Respondent has a drug problem.

3.2.8 The Respondent is in receipt of universal credit. His benefits are up to date.

3.2.9 As far as she is aware the Respondent resides in the Property alone.

#### **4. Decision**

##### **4.1. Requirements of Section 109 of the Procedure Rules.**

**4.1.1** The Tribunal confirmed that the application correctly detailed the requirements of section 109(a) of the Procedure Rules namely:-

- (i) the name, address and registration number of the Landlord.
- (ii) the name and address of the Landlord's representative.
- (iii) the name and address of the Tenant.
- (iv) the ground of eviction. The ground stated in the application is that the tenant is in rent arrears over three consecutive months.

The Tribunal accepted that this is Ground 12 of Schedule 3 of the 2016 Act.

**4.1.2** The Tribunal confirmed that the application complied with the requirements of Section 109(b) of the Procedure Rules:

- (i) evidence showing that the eviction ground or grounds had been met.

The required rent statement had been provided showing rent arrears over three consecutive months.

- (ii) a copy of the notice to leave given to the Tenant as required by section 52(3) of the 2016 Act.

The Tribunal confirmed that the Notice to Leave was in correct form as set out in Schedule 5 of the Private Residential Tenancies Notices and Forms (Scotland) Regulations 2017.

The Notice to Leave was dated 14<sup>th</sup> February 2025 and advised the Tenant that the Applicant intends to apply to the Tribunal for an eviction order in respect of the property on the basis of Ground 12 (The Tenant is in rent arrears over three consecutive months). It also advised that an application would not be submitted to the Tribunal for an eviction order before 19<sup>th</sup> March 2025.

The Tenancy commenced on 8<sup>th</sup> January 2024. As at 14<sup>th</sup> February 2025 (the date of the Notice to Leave) the Tenant had resided in the property for more than six months. The application for eviction was based on Ground 12 of Schedule 1 of the 2016 Act and therefore twenty eight days notice was required.

The Landlord served the Notice to Leave on the Tenant by email on 14<sup>th</sup> February 2025 and correctly gave the Tenants a minimum of twenty eight days notice.

(iii) a copy of the notice given to the local authority as required by Section 56(1) of the 2016 Act.

The Tribunal confirmed that a copy of the required notice had been provided.

**4.1.3** The Tribunal confirmed that the application form had been correctly signed and dated by the Landlords' representatives as required by Section 109(c) of the Procedure Rules.

## **4.2 The Tribunal made the following findings in fact:**

4.2.1 The Respondent is Tenant of the Property in terms of the lease between the parties.

4.2.2 The start date of the Tenancy detailed in the lease was 8<sup>th</sup> January 2024.

5.2.2 Applicant is Landlord of the Property.

5.2.3. The lease is a Private Residential Tenancy in terms of the Private Housing Tenancies (Scotland) Act 2016 ('The 2016 Act').

5.2.4 The rent detailed in the tenancy agreement was £600 per calendar month, payable in advance.

5.2.6 The Notice to Leave was dated 14<sup>th</sup> February 2025 and it was served on the Respondent by email on 14<sup>th</sup> February 2025.

5.2.7 The Notice to Leave stated that the Respondent was in rent arrears over three consecutive months, which is Ground 12 of Schedule 3 of the Private Housing (Tenancies) Scotland Act 2016.

5.2.8 The rent account has been in arrears since 8<sup>th</sup> December 2024.

5.2.9 The rent arrears as at 22<sup>nd</sup> December 2025 amounted to £4210.83.

5.2.9 The rent arrears were not due to the delay or failure in the payment of a benefit.

5.2.10 The Landlord's representatives had sent the Respondent pre action letters dated 12<sup>th</sup> and 26<sup>th</sup> November 2024 and 10<sup>th</sup> December 2024.

**5.3 In relation to the requirements of Ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal found as follows:**

5.3.1. The Tribunal determined that the Respondent had been in arrears of rent for three or more months at the date of the Notice to Leave, the date of the Application to the Tribunal and at today's date.

5.3.2 The Tribunal found that the rent arrears were not due to a delay or failure in payment of a relevant benefit.

5.3.3 The Tribunal found that it was reasonable for the eviction order to be granted for the following reasons:

5.3.3.1 The considerable amount of the rent arrears owing.

5.3.3.2 The fact that the rent account has been in arrears since 8<sup>th</sup> December 2024.

5.3.3.2 The fact that the Applicant had issued preaction letters to the Respondent.

5.3.3.3 The fact that the Respondent did not have any proposals to make in relation to the rent arrears.

5.4 The Tribunal found in law that the ground in Schedule 3(12)(1) of the 2016 Act was met.

5.5 The Tribunal granted the eviction but determined that the Order should not to be executed prior to 12 noon on 20<sup>th</sup> February 2026.

## **6. 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.

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Legal Member: Jacqui Taylor

Date: 19<sup>th</sup> January 2026

Jacqui Taylor

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