



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 and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/2866

Re: Property at 160 Landemer Drive, Rutherglen, G73 2TD (“the Property”)

Parties:

Mr Martin Wiggins, 31 Holmhead Road, Glasgow, G44 3AR (“the Applicant”)

Looking to Rent, 576 Alexandra Parade, Glasgow, G31 3BP (“the Applicant’s Representative”)

Miss Cheryl Orr, 160 Landemer Drive, Rutherglen, G73 2TD (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Elaine Munroe (Ordinary Member) (“the tribunal”)

Decision (in absence of the Parties) and in accordance with Rule 18 of the Rules:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order against the Respondent be granted.

Background

1. This is an application for recovery of the Property. The application is dated 3 July 2025. The Applicant is seeking recovery under Ground 12, Part 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. This ground states that it is an eviction ground that a tenant has been in rent arrears for three or more consecutive months.
2. A case management discussion was held by teleconference on 17 December 2025. The Applicant was represented by Mrs Blackstock, of Looking to Rent, letting agents. The Respondent was in attendance.

3. Limited representations had been submitted by parties subsequent to the application being submitted, and before the case management discussion.
4. Prior to the case management discussion, an updated rent statement had been submitted by the Applicant which showed arrears of rent at 30 July 2025.
5. The tribunal was satisfied that the rent had been in arrears for three consecutive months.
6. It seemed to the tribunal that, in referring to the action as an “agreed eviction”, Mrs Blackwood appeared to consider that this was sufficient for the tribunal to agree to grant an order of eviction. This also seemed to be a view shared by Miss Ross who said that the Property was not suitable for her.
7. It was explained to parties that the statutory position is clear. The tribunal has to be satisfied that, on account of the ground of eviction being met, it is reasonable to grant the order. They were advised that a case management discussion was not a forum for hearing evidence. The tribunal was not satisfied, without hearing evidence, that it was reasonable to grant the order of eviction and determination of the application was continued to a hearing to be arranged in due course.
8. Subsequent to the case management discussion, the Applicant’s Representative applied to the Tribunal seeking for the application to be dealt with on the papers it had, and without the requirement of a hearing of evidence. The representations of the Applicant’s Representative stated that it was not in the interest of either party that matters be delayed.
9. The tribunal considered the request of the Applicant and determined that it had insufficient information to grant an order of eviction. It considered the terms of Rule 18 of the Rules:

18. (1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties

10. On 13 January 2026, a Direction was made in terms of Rule 16 of the Rules requiring both parties to confirm that they were content to have the application determined without a hearing and, if so, to provide certain information on whether it would be reasonable to grant the order of eviction.

11. Both parties submitted written representations in response to the Direction.

Determination regarding Rule 18

12. The tribunal was satisfied that both parties were content that the application be determined without a hearing.

13. The tribunal determined that it had sufficient information to determine the application without a hearing.

Consideration of Application

14. The members of the tribunal met on 13 February 2026 to discuss the application before it.

Documents before the tribunal

15.1 Copy of the private residential tenancy agreement for the Property dated 30 January 2019 showing the commencement of the tenancy to be 30 January 2019 and the initial monthly rent to be £525. The tenancy agreement showed the tenant to be the Respondent.

15.2 Copy rent statement dated 30 June 2025 showing that there had been rent arrears since 28 February 2025.

15.3 Copy rent statement dated 30 July 2025 showing that there continued to be rent arrears.

15.4 Copy rent statement dated 30 December 2025 showing the rent outstanding to be £1,155 and that rent arrears had existed since 28 February 2025.

15.5 Notice to Leave dated 3 June 2025 and delivered by email on the same day.

15.6 Notice to the local authority in terms of Section 11 of The Homelessness etc. (Scotland) Act 2003 dated 3 July 2025.

15.7 Print of Title Sheet for LAN84928 (the Property).

15.8 Documents concerning the pre-action requirements.

15.9 Written representations by the Applicant's Representative dated 22 January 2026.

15.10 Written representations by the Respondent dated 27 January 2026, including supporting documents from a health care professional.

Findings in Fact

16.1 The Applicant is the owner of the Property.

16.2 The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property on 30 January 2019.

16.3 The start date for the tenancy was 30 January 2019.

16.4 The initial monthly rent for the Property was £525 per month and is currently £570.

16.5 The Applicant gave the Respondent Notice to Leave which was served on 3 June 2025.

16.6 The Applicant has given notice to the local authority in terms of Section 11 of the Homelessness etc. (Scotland) Act 2003.

16.7 The Respondent resides at the Property.

16.8 There were rent arrears of £1155 on 30 December 2025 and there have been arrears of rent since 28 February 2025 which have not been repaid.

16.9 The rent arrears continue to increase each month.

Findings in Fact and Law

17.1 The Private Residential Agreement dated 30 January 2019 contains eviction grounds including Ground 12: "It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months."

17.2 The Notice to Leave which was dated 3 June 2025 referred to the Respondent being in rent arrears over three consecutive months which is being relied on by the Applicant as the reason for seeking recovery of the Property.

17.3 The Notice to Leave indicated that any proceedings for eviction would not be commenced prior to 1 July 2025.

17.4 As at the date of the Notice to Leave and currently, the Respondent is in rent arrears for three or more consecutive months.

The Law

The following are provisions of the Private Housing (Tenancies) (Scotland) (Act) 2016

Section 51: First-tier Tribunal's power to issue an eviction order

(1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

(introduced by section 51)

Schedule 3, Part 12

Rent arrears

12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if—

(a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant—

(i) is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and

(ii) 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, and

(b) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

(3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

(a) for three or more consecutive months the tenant has been in arrears of rent, and

(b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.

(4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

(5) For the purposes of this paragraph—

(a) references to a relevant benefit are to—

(i) a rent allowance or rent rebate under the [Housing Benefit \(General\) Regulations 1987 \(S.I. 1987/1971\)](#),

(ii) a payment on account awarded under regulation 91 of those Regulations,

(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,

(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,

(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.

Discussion and Reasons

18. The tribunal had regard to the documentation which had been lodged by the Applicant.

19. The rent statements showed that there have been arrears of rent since 28 February 2025.

20. The Respondent accepts that she has been in rent arrears for more than three consecutive months.

21. The documentation lodged by the Applicant evidenced that appropriate notice had been given to the Respondent and that the appropriate intimation had been given to the local authority in terms of the Homelessness etc. (Scotland) Act 2003. They also evidenced that the Applicant had complied with the necessary pre- action requirements and had provided information to the Respondent with regard to where she might get assistance.

22. The tribunal considered if the requirements of Ground 12 had been met. There were arrears of rent of more than three months and the Respondent had been in arrears since 28 February 2025.

23. In considering whether or not it is reasonable to grant the order of eviction sought by the Applicant, the tribunal had to carry out a balancing exercise after considering the respective position of the parties. It had regard to the information provided by the parties and to their representations.

24. On 31 July 2025, the Applicant's Representative emailed the Tribunal and stated that the Respondent's rent arrears were continuing to grow because of a shortfall between the rent due and the sum paid from Housing Benefit. It was stated that the Respondent was doing nothing to address the arrears of rent and that it would therefore be reasonable for an order of eviction to be granted.

25. In July 2025, the Applicant's Representative submitted a statement signed by the Respondent and dated 3 July 2025 in which she stated that she did not oppose the application for eviction and that she consented to termination of the tenancy. At the case management discussion, the Respondent could not recall signing this.

26. In response to the Direction, the Applicant provided an updated rent statement, copies of the pre-action correspondence with the Respondent and an email from the Applicant in which he stated that there was no mortgage on the Property and that the property insurance premium was £221.19. No information was provided with regard to the Applicant's circumstances.

27. In response to the Direction, the Respondent submitted detailed representations.

28. The Respondent stated that she was a single parent with children aged 7, 4 and 1. She is unemployed and in receipt of Universal Credit. She said that the sum she receives in Benefits for the housing element is insufficient to pay the rent and that there is a shortfall which increases every month because she cannot pay it from her own resources. She stated that she was not entitled to a discretionary housing payment.

29. The Respondent stated that she had been unsuccessful in obtaining alternative housing, despite searching and making many applications.

30. The Respondent stated that the Property was unsuitable for her family but that she cannot get rehoused in social housing unless an order of eviction is granted. She stated that her own health, and that of her children, is affected by her current housing situation. The Respondent stated that there was insufficient space in the Property for her family and submitted two letters from a Health Visitor in support of her position that it would be reasonable for the order of eviction to be granted because this would allow her to obtain other housing.

31. The tribunal required to balance the Applicant's position against that of the Respondent. It was disappointing that the Applicant's Representative had not adequately addressed the question of reasonableness in its representations in response to the Direction. Fortunately, the Respondent had provided compelling information which addressed the question of reasonableness.

32. The tribunal accepted that it was unlikely that the Respondent would be able to pay the full rent for the Property and which she was contractually obliged to pay to the Applicant. The tribunal also accepted that the Respondent was not opposing the application and had provided evidence that, in fact, the Property was unsuitable for her housing needs.

33. Weighing matters, the tribunal considered that it was reasonable to grant the order of eviction.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order of eviction be granted.

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.

**Martin J. McAllister
Legal Member
19 February 2026**