



**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/25/3414**

**Re: Property at 39 Thorncroft Drive, Croftfoot, Glasgow, G44 5HW (“the Property”)**

**Parties:**

**Mr Andrew Cromar, Mrs Jacqueline Cromar, 54 Holmhills Terrace, Cambuslang, Glasgow, G72 8ER (“the Applicants”)**

**Ms Agnes McKay, 39 Thorncroft Drive, Croftfoot, Glasgow, G44 5HW (“the Respondent”)**

**Tribunal Members:**

**Jim Bauld (Legal Member) and Eileen Shand (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that that the application for the order for possession should be granted**

**Background**

1. By application dated 8 August 2025 the applicants sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 10 September 2025 the application was accepted by the tribunal and referred for determination by the tribunal.

3. A Case Management Discussion (CMD) was set to take place on 16 February 2026 and appropriate intimation of that hearing was given to both parties.
4. The application was heard together with a conjoined application involving the same parties for a payment order under tribunal reference FTS/HPC/CV/25/3417

### **The Case Management Discussion**

5. The Case Management Discussion (CMD) took place on 16 February 2026 via telephone case conference. The applicants were present. The Respondent was also present and accompanied by Ms. Cheryl Patrick.
6. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
7. The tribunal asked various questions of the parties with regard to the application.
8. The respondent indicated that she no longer wanted to stay in the property. She indicated that she has been struggling with her health over the last year. She has been obtaining assistance from a community link worker at her local GP practice. She has been attempting to obtain alternative accommodation but has been advised by the local council that they will not assist unless and until an eviction order is granted.
9. The tribunal was advised that the respondent took over the tenancy after the death of her mother and that she lives alone. She has struggled to cope
10. It was noted that the respondent is in receipt of income via benefits. Until about February 2025, she was in receipt of housing benefit which was being paid directly to the landlord. She was then moved onto universal credit ("UC") and has not been able to arrange that the housing element of UC is paid directly to landlord. It was indicated that the respondent receives £824 every four weeks in respect of universal credit which includes a housing element of £550. The housing element of UC is intended to be used by recipient to pay their rent. . Additionally, she receives employment support allowance ("ESA") of £280 per month and adult disability payment ("ADP") of £500 per month. The respondent accepted that she has not made any payments of the housing element of universal credit to her landlord.
11. The applicants indicated that they wished the eviction order to be granted. It was explained that housing benefit had been paid until about February 2025 and was paid on a four-weekly basis in the initial months of the tenancy. There was a shortfall in housing benefit which was not covered by the respondent. Since March 2025 the respondent has paid nothing towards arrears which were now in excess of £7600.

12. The respondent was not opposed to the eviction order being granted and the tribunal asked parties whether the tribunal should consider delaying the enforcement of the eviction order. The applicants were opposed to delay whereas the respondent indicated that it would be helpful to her if the enforcement of the order could be delayed to enable her to obtain ongoing assistance in respect of alternative accommodation.

### **Findings in Fact**

13. The Applicants are the registered owner of the property.

14. The Applicant and the Respondent, as respectively the landlord and tenant entered into a tenancy of the property which commenced on 1 May 2022.

15. The tenancy was a private residential tenancy in terms of the Act.

16. The agreed monthly rental was £550.

17. On 27 April 2025 the applicant served upon the tenant a notice to leave as required by the Act. Service was effected by personal delivery and the Notice became effective on 30 May 2025.

18. The notice informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act.

19. The notice was correctly drafted and gave appropriate periods of notice as required by law.

20. The notice set out one of the grounds contained within schedule 3 of the Act, namely ground 12 (that the tenant had been in arrears of rent for three or more consecutive months)

21. Arrears had started to accrue from the commencement of the tenancy and at the date of the lodging of the application arrears amounted to £4352.24

22. The amount of arrears at the date of the CMD was £7,652.24.

23. Appropriate accounting had been provided in respect of the outstanding rent with the application to the tribunal.

24. The basis for the order for possession on ground 12 was thus established.

## Reasons for Decision

25. The order for possession sought by the landlord was based on a ground specified in the Act and properly narrated in the notice served upon the tenant. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground.
26. The tribunal accepted the evidence presented on behalf of the landlord with regard to the rent arrears. A rent statement was produced which set out the history of the arrears. Since the commencement of the tenancy in May 2022, the respondent has failed to pay the rent as it fell due and significant arrears have accrued. The Respondent did not dispute that arrears had accrued nor that she had failed to make any payments since March 2025.
27. The tribunal was satisfied that the tenant had been in arrears for a period far in excess of three consecutive months and the arrears owed were significant. The ground for eviction based on rent arrears was accordingly established.
28. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on ground 12 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
29. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
30. The Tribunal now has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties. This is confirmed by one of the leading English cases, *Cumming v Danson*, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in an oft-quoted passage:

***“[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account”.***

31. The level of arrears is extremely high, and it is unlikely that the arrears will ever be repaid. There is no suggestion that the tenant is making any attempt to meet the rent. The arrears as the date of the CMD are a significant sum and there appears to be no likelihood of them being repaid by the respondent. The respondent has already sought initial assistance from the local council. It is noted that she has a number of ongoing health issues. It is likely that she will only be fully assisted in obtaining alternative accommodation when an eviction order is granted and she faces actual homelessness. She is not generally opposed to the granting of the order.
32. In all the circumstances the tribunal decided that it was reasonable to grant the order sought. The Tribunal will delay enforcement of the order until 31 March 2026.
33. The tribunal decided to exercise the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

### **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.**

# Jim Bauld

**16 Feb. 26**

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**Legal Member/Chair**

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**Date**