



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/25/2446

Re: 6/B Wellgate Street, Larkhall, ML9 2AG ('the Property')

Parties:

Silvano Pisano, Executor of the estate of Luigi and Rita Martalo ("the Applicant")

Miss Shirleyann McCulloch, Rent Locally, 42-46 Cadzow Street, Hamilton, ML3 6DS (The Applicant's Representative')

William Mourning, 6/B, Wellgate Street, Larkhall, ML9 2AG ("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 9th June 2025. The application stated that the ground for eviction was as follows:

'Ground 12- Rent Arrears.'

1.3 Documents lodged with the Tribunal were:-

- Private Residential Tenancy Agreement between the parties dated 7th and 8th September 2022.

- A rent statement dated for the period 24th July 2024 to 8th June 2025 to showing arrears of £4017.84.
- Notice to Leave dated 6th 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 9th March 2025.
- A copy of an email dated 6th February 2025 to the Respondent sending him the Notice to Leave.
- A list of interactions between the Applicant's Representative and the Respondent during the period 9th June 2025 and 11th December 2023.
- Email from Mr PS Pisano to the Applicant's Representative dated 27th May 2025 advising that the estate has not yet been settled.
- Section 11 Notice addressed to South Lanarkshire Council.
- Email to South Lanarkshire Council dated 9th June 2025 attaching the section 11 Notice.

2. By Notice of Acceptance by Joan Devine, Convener of the Tribunal, dated 5th August 2025 she intimated that she had decided to refer the application (which application paperwork comprises documents received between 9th June 2025 and 14th July 2025) to a Tribunal.

3. Case Management Discussion

3.1 This case called for a conference call Case management Discussion (CMD) at 14.00 on 19th January 2026.

Miss Shirleyann McCulloch, 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 Stuart Sinclair, Sheriff Officer on 21st November 2025. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

3.2 Miss McCulloch advised the Tribunal as follows:

3.2.1 Rentlocally had received a letter from Leonards Law advising that Rita Martalo had died in February 2023 and Luigi Martalo had died in June 2023 and the eviction action should be raised in the name of Silvano Pisano as executor of Luigi Martalo.

3.2.2 The current rent arrears amounted to £7533.45. The Respondent had last made a payment towards the rent of £1004.46 on 10th October 2024.

3.2.3 The rent detailed in the lease was £460 per month. The rent had increased to £473.80 on 18th September 2023 and £502.23 on 8th September 2024.

3.2.4 The Tenant last communicated with the Letting Agent in December 2024.

3.2.5 The Tenant is 48 years of age.

3.2.6 The Property is a two bedroom flat. The Tenant lives in the Property alone.

3.2.7 The Property is not adapted for the tenant's needs.

3.2.8 In November 2024 the tenant advised the Letting Agent that he had been made redundant. The Letting agent sent the Tenant information as to how he could obtain advice from the Citizens Advice Bureau and Money Advice.

3.2.9 They had received an email from the Tenant dated 9th December 2024 which confirmed that he had been in touch with Money Advice. They had confirmed that he would be entitled to back dated benefits.

3.2.10 They held off commencing the eviction until March 2025 to allow time for the Tenant to complete his applications for benefits.

3.2.11 The Tenant did not follow through with his benefits application and Money Advice closed their file.

3.2.12 As far as she is aware the Tenant does not have any health issues.

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 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 6th 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 9th March 2025.

The Tenancy commenced on 8th September 2022. As at 6th 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 on by email dated 6th February 2025 and correctly gave the Tenant 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 produced.

4.2.2 The start date of the Tenancy detailed in the lease was 8th September 2022.

4.2.3 The Land Certificate for the Property is title number LAN54532. Section B of the Land Certificate states that the heritable proprietors of the Property are Luigi Martalo and Rita Martalo and the survivor. Rita Martalo predeceased Luigi Martalo. The applicant is representative of Luigi Martalo.

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

4.2.5 The rent detailed in the tenancy agreement was £460 per calendar month, payable in advance.

4.2.6 The Notice to Leave was dated 6th February 2025 and it was served on the Respondent by email dated 6th February 2025.

4.2.7 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.

4.2.8 The rent account has been in arrears since 8th November 2024.

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

4.2.10 The Landlord's representatives had sent the Respondents pre action letters.

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

4.3.1. The Tribunal determined that the Respondent had been in arrears of rent for three or more months at 6th February 2025 (the date of the Notice to Leave), 9th June 2025 (the date of the Application to the Tribunal) and at today's date.

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

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

4.3.3.1 The considerable amount of the rent arrears owing.

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

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

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

4.5 The Tribunal granted the eviction but determined that the Order should not be executed prior to 12 noon on 20th February 2026.

5. 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.

Legal Member : Jacqui Taylor

Date: 19th January 2026