

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber)**

**Chamber Ref: FTS/HPC/CV/25/0936**

**Re: Property at Flat 1/3, 4 Leighton Street, Glasgow, G20 9AH (“the Property”)**

**Parties:**

**Lowther Homes Limited, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL  
 (“the Applicant”)**

**Mr David Fletcher, Ms Ashley McElroy, Flat 1/3, 4 Leighton Street, Glasgow,  
G20 9AH; Flat 1/3, 4 Leighton Street, Glasgow, G20 9AH (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and Eileen Shand (Ordinary Member)**

**Decision**

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

**BACKGROUND**

1. By Lease dated 9<sup>th</sup> May 2022, the Applicant let the Property to the Respondent.
2. The start date of the tenancy was 9<sup>th</sup> May 2022.
3. The monthly rent was initially £550.00 per calendar month. Rent was increased thereafter.
4. The Respondents fell into arrears of rent. A notice to leave was served on 17<sup>th</sup> January 2025. As at that date, arrears of rent amounted to £7,937.94.

5. Proceedings were raised before the tribunal for both an eviction order (Case reference EV/25/0935) and an order for payment of rent arrears (Case reference CV/25/0936).
6. As at 28<sup>th</sup> February 2025, the date of proceedings being raised, arrears of rent amounted to £7,936.93.
7. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
8. Prior to the case management discussions, written representation were lodged on behalf of the First Respondent, David Fletcher. Those representations related to the eviction application only. The representation lodged intimated that an eviction order was opposed as being unreasonable.
9. The written representations, in brief, intimated the following
  - The second named Respondent, Ashley McElroy, no longer resided at the Property.
  - The Respondent David Fletcher resides at the Property with his adult son.
  - There are arrears of rent.
  - The arrears arose during a time of personal difficulty, including health issues, affecting the First Respondent David Fletcher.
  - The issues referred to have resulted in the First Respondent losing his employment.
  - The first Respondent is now in receipt of various benefits and in a position to make payment of rent on an ongoing basis, including approximately £200.00 per month towards arrears.

#### **THE CASE MANAGEMENT DISCUSSION ON 25<sup>TH</sup> AUGUST 2025**

10. The Applicant was represented at the case management discussion by Mr D Adams of Wheatley Housing Group Litigation Team. The First Respondent, David Fletcher, was represented by Ms R Stafford of LSA. He was only represented by her in relation to the eviction case.
11. The Second Respondent, Ashley McElroy did not participate in the case management discussion. The Tribunal, however, was in receipt of a certificate of intimation by Sheriff Officers confirming that the proceedings had been intimated upon her. In the circumstances, the Tribunal was satisfied in terms of Rule 24 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the FTT Regs”) that the Second Respondent had received intimation of the date and time of the Case Management Discussion and considered that it was appropriate to proceed with the Case Management Discussion in her absence in accordance with Rule 29 of the FTT regs
12. Prior to the case management discussions, the Tribunal had not been provided with an updated rent statement. Mr Adams, however, advised the

Tribunal that arrears of rent now amounted to £6,162.89. Since the date of the application to the Tribunal, therefore, arrears had been reduced by approximately £1,800.00.

### **Eviction**

13. In connection with the eviction action, Miss Stafford, on behalf of the First Respondent, continued to oppose an eviction on the grounds it was not reasonable for the Tribunal to grant such an order. In those circumstances, Mr Adams accepted that the Tribunal required to assign a hearing to determine that issue.
14. The First Respondent intimated that he was now in a position to pay rent on an ongoing basis and would be in a position to reduce the arrears.
15. The Tribunal indicated that if rent was paid on an ongoing basis and if arrears were reduced those are factors which would be taken into account by the Tribunal in making its decision at the hearing to be assigned.

### **Rent Arrears**

16. In relation to the payment action, Mr Adams moved the Tribunal to grant an order for payment. Having regard, however, to the fact that the Tribunal did not have an updated rent statement and having regard to the fact that, in relation to the eviction action, a hearing was being assigned, and having regard to the fact that the two actions were closely connected, the Tribunal considered it appropriate to assign a hearing in relation to the payment action also.

### **THE HEARING ON 2<sup>ND</sup> FEBRUARY 2026**

17. The Applicant was again represented by Mr D Adams of Wheatley Housing Group Litigation Team. The First Respondent, David Fletcher, was again represented by Ms R Stafford of LSA. He was only represented by her in relation to the eviction case.
18. Prior to the Hearing the Applicant's representative lodged an updated rent statement. This showed that monthly rent had been increased to £651.01. It showed arrears of rent as at 1<sup>st</sup> January 2026 in the amount of £7,867.94.
19. Mr Adams advised that a further rental payment has now been missed and arrears amounted to £8,519.95.
20. Mr Adams moved the Tribunal to grant an order for eviction. He pointed out that arrears of rent have subsisted for a lengthy period of time, that while arrears had been reduced in advance of the Case Management Discussion in August 2025 they had now increased again. Given the level of arrears and the lengthy period over which the arrears have subsisted, it is appropriate that an order for eviction be granted.

## **The First Respondent's Position**

21. On behalf of the First Respondent, Miss Stafford opposed the eviction. She intimated that it was not reasonable for an eviction order to be granted. In support of that, Miss Stafford advised the Tribunal of the following:-
- a. Mr Fletcher has been through personal difficulties over a number of years, in particular, the death of his ex-wife in 2022.
  - b. His adult son resides with him. His adult son is at university and will be sitting final exams in a few months time. An eviction order would have an effect upon him and his studies.
  - c. Mr Fletcher is awaiting an assessment for ADHD and tourette's.
  - d. He suffered a bereavement last year, his mother passing away in Liverpool on 28<sup>th</sup> November 2025.
  - e. While arrears of rent had increased, that was partly due to his need to make payment of funeral expenses following the death of his mother. He was not in a position to make payment of rent or a contribution towards arrears at that time.
  - f. He has applied to universal credit for alternative payment arrangement to enable any housing element to be paid direct to the Applicants.
  - g. His son is making payment to him of £50.00 per week for bed and board. Those payments will be able to be forwarded to the Respondent to reduce arrears, being the equivalent of £200.00 per month.
  - h. His universal credit payments will enable him to make a further payment of £40.00 per month towards the arrears.
  - i. In the circumstances, Mr Fletcher now has a pathway to pay rent and arrears.
  - j. Having regard to his personal difficulties, the interests of his adult son and his ability to make payment of rent, and a contribution towards arrears, on an ongoing basis it is not reasonable that an order of eviction be granted.
22. The Tribunal, while noting the submissions on behalf of Mr Fletcher, also had regard to the updated rent statement submitted. This rent statement showed that a payment of £850.00 was made by Mr Fletcher on 12<sup>th</sup> September 2025. The next payment he made was a payment of £700.00 on 21<sup>st</sup> November 2025. Given his mother did not pass away until 28<sup>th</sup> November 2025, why was no payment made during October 2025 or earlier in November 2025? The Tribunal was advised that Mr Fletcher had a difficulty in obtaining adult disability payment and, in addition, he had debts to family and friends which he prioritised over his rent.
23. The Tribunal enquired as to the nature of the debts he prioritised over his rent. No specific information was provided other than the fact that Mr Fletcher felt under pressure to make good on these debts, rather than paying his rent, although with hindsight he appreciated that may not have been the most sensible of decisions.
24. Mr Fletcher's income and expenditure were explained. The Tribunal was advised his income is £1,300.00 per month. Prior to his mother passing away, she was unwell and, in the circumstances, he would often travel to Liverpool, together with his son, the return train fare being £80.00 each for himself and

his son. The Tribunal was advised he also contributed towards the costs of his mother's funeral, although it later became clear that his contribution was towards the cost of the "wake" after the funeral rather than the funeral service itself.

25. The First Respondent has also borrowed money from friends and family which requires to be paid back. He believes that is in the region of £400.00 or £500.00. He will not need to make payment of those debts, however, until he returns to work.
26. Miss Stafford advised that Mr Fletcher appreciates the position he is in. He apparently had difficulty obtaining advice from Citizens Advice Bureau. He accepts his arrears have increased since the last calling of the case. He unfortunately did not prioritise his rent payments over other payments. He does have mental health issues which may have affected his judgement. He is still awaiting assessments for ADHD and tourette's and while he is hoping to return to work, it is not known when he will be fit for work.
27. Mr Fletcher last worked in 2022. He was working in Newcastle until his ex-wife passed away. He received payment of his salary for approximately 3 or 4 months following the passing of his wife in January 2022. He has not worked since and his salary payments stopped during 2022.
28. Mr Fletcher advised that his mother's estate is going through probate and he anticipates that, in due course, he will receive a significant sum of money from his mother's estate. He hopes to be in a position to clear his arrears in full and have sufficient funds to start a business. It was accepted, however, that it is not known when his mother's estate will be settled, when any payment from her estate will be paid to the Mr Fletcher nor, indeed, the amount which will be due to the Mr Fletcher, although he does anticipate that it will be more than enough to clear arrears of rent.
29. The Tribunal enquired as to the basis upon which it could have any confidence, having regard to the history of rent arrears, that Mr Fletcher will make payment of rent and any contribution towards arrears on an ongoing basis. Miss Stafford advised the Tribunal:-
  - a. Mr Fletcher is conscious of the fact that his son in his final year at University and is keen not to disrupt his studies. Any eviction order would affect his son and Mr Fletcher wishes to avoid that.
  - b. He is very motivated at this stage to turn his life around and to clear his debts.
  - c. He has previously shown that he is capable of reducing arrears of rent.
  - d. His son is willing to set up a direct debit payment in order that the £50.00 per week he is to pay to Mr Fletcher for bed and board will be paid directly to the Applicant in relation to arrears of rent.
  - e. Mr Fletcher has recently had his medication changed and is seeking to obtain additional support in relation to his mental health which is likely to be of assistance to him.

30. In relation to the benefits paid to Mr Fletcher, it was confirmed to the Tribunal that he is in receipt of Universal Credit which includes a housing element. This housing element, however, is not paid directly to the Applicant. He is willing for the Applicant to make an application for the housing element to be paid directly. When asked why this had not been done earlier, reference to his difficulty in obtaining advice from Citizen Advice Bureau was made.
31. In relation to Mr Fletcher's son the Tribunal was advised he is 22 years of age, he is studying Quantity Surveying or Building Surveying at Glasgow Caledonian University. He is in his final year. He is in the process of completing his dissertation and will hopefully graduate this year.
32. Mr Fletcher has four son's although only one currently resides with him.
33. In relation to Mr Fletcher's mental health, the Tribunal sought clarification in relation to that. The Tribunal was advised that he does not have an actual diagnosis of any mental health condition at this stage. He has been on medication for a number of years. His medication has recently been changed. Previous medication was affecting him adversely. His medication was changed in October 2025 and he feels much better since his medication has been changed.
34. The Tribunal sought clarification in relation to an arrangement for the housing element of universal credit to be paid directly. Mr Fletcher advised that he understood an enquiry had been made about that but a reply was awaited.
35. The Tribunal enquired as to the outcome of Mr Fletcher's Application for adult disability payment. He advised that he has applied for this. He "went everywhere", filled in forms but was then advised the forms had been filled in wrongly. It was not known if or when adult disability payments would be made to him.
36. In relation to Citizen's Advice Bureau, the Tribunal enquired as to whether he had any appointment lined up with them. He advised he did not. He advised "they put me on to the legal team".

### **The Applicant's Position**

37. In response, Mr Adams advised the Tribunal that the Applicant's position remains the same. Given the history of rent arrears, and the level of rent arrears, an eviction order is sought.
38. The Tribunal was advised of the following:-
- a. The tenancy commenced in May 2022. Arrears of rent have existed since shortly thereafter.
  - b. Numerous arrangements have been put in place with Mr Fletcher in relation to payment of arrears. The first such arrangement was as early as 6<sup>th</sup> July 2022 when Mr Fletcher agreed to pay £100.00 every Thursday until arrears which existed at that stage were cleared. That arrangement was not adhered to.

- c. Thereafter, 16 further payment arrangements have been entered into with Mr Fletcher. He has failed to adhere to any such payment arrangement.
- d. Mr Fletcher advised the Tribunal at the Case Management Discussion on 25 August 2025 that he would make payment of rent on an ongoing basis and would make payment towards the arrears. He has failed to do so, that being a further promise of payment by Mr Fletcher which has not been adhered to.
- e. In all the circumstances, the Applicant can have no confidence that Mr Fletcher will adhere to any arrangement for payment of rent or arrears and the stage has now been reached where the grant of an eviction order is appropriate.

### **The First Respondent's Response**

39. Mr Fletcher confirmed to the Tribunal that he entered into 17 payment arrangements, none of which have been adhered to. He suggested that a representative of the Applicant would contact him about payment arrangements when his mental health was poor and he would "agree to anything".
40. Mr Fletcher advised that a Mr Anderson and a Miss Rush, employees of the Applicant, attended to speak to him approximately one year ago. When they attended he advised them he "was having a bad day" and he asked them not to enter the Property. They advised at that stage that they would be seeking an eviction order. He "threw them out of the house". He called the next day to apologise. He advised that sometimes, when he is contacted about debt to make an arrangement to make payment of the arrears, the employees of the Applicant do not appreciate his limited income and the fact that he cannot afford the arrangements they wish him to enter into.

### **FINAL SUBMISSIONS**

#### **The Applicant**

41. In support of an eviction order, Mr Adams made the following final submissions:-
  - a. While Mr Fletcher has made reference to his mental, no medical evidence in relation to his mental health has ever been provided.
  - b. Following the Case Management Discussion on 25<sup>th</sup> August 2025, when an assurance was given by Mr Fletcher that payment of rent would be made on an ongoing basis and arrears would be reduced, Mr Fletcher is no further forward, in fact, arrears have increased again.
  - c. The arrears are substantial.
  - d. Arrears have subsisted continuously since June 2022.
  - e. No less than 17 payment arrangements have been broken.
  - f. The situation is not sustainable for any landlord.
  - g. Mr Fletcher has had ample opportunity to obtain advice from any agency or legal representative of his choosing.
  - h. He has, in fact, had legal advice for a number of months. He was legally represented prior to and at the Case Management Discussion on 25<sup>th</sup> August 2025 and continues to have the same legal representation.

- i. He has failed to prioritise payment of his rent over other payments he has chosen to make.
- j. He has been given ample opportunity to address the situation and has consistently failed to do so.
- k. In all the circumstances, it is reasonable that an order for eviction should be granted.

### **The First Named Respondent**

42. On behalf of Mr Fletcher, Miss Stafford made the following submissions:-
- a. Mr Fletcher acknowledges arrears of rent have existed for a long time.
  - b. He acknowledges that the arrears of rent are substantial.
  - c. The arrears arose in circumstances which were out with his control.
  - d. The Tribunal has been advised of the circumstances in which arrears began accruing, that being the death of his ex-wife in 2022 and the subsequent breakup of his relationship with his then partner.
  - e. Mr Fletcher has required to support adult sons following the passing of his ex-wife.
  - f. His youngest son continues to reside with him and is at University, in his final year, and is about to sit final exams.
  - g. Mr Fletcher relies on universal credit and his income is limited.
  - h. He has tried to clear arrears of rent, is committed to reducing arrears of rent and has shown in the past that he is capable of doing so.
  - i. An eviction order will affect his son's education.
  - j. He has now applied for direct payment of rent from his benefits which should ensure rental payments are paid on an ongoing basis.
  - k. Going forward, rent will be paid.
  - l. He is expecting an inheritance of several thousand pounds and, when that is received, he will make a lump sum payment towards his rent.
  - m. He is content to enter into an arrangement to settle the debt to the Applicant which currently exists in terms of arrears of rent.
  - n. An eviction order is disproportionate having regard to the effect it will have upon Mr Fletcher's son and Mr Fletcher's mental health. There is a realistic pathway to resolve the issue which exists.
  - o. In the circumstances, the Tribunal should refuse an order for eviction or, alternatively, should continue the application again to enable Mr Fletcher to make payment of rent and arrears and evidence that he is in a position to do so.
  - p. Mr Fletcher has not been asked to produce any medical information at any stage.

43. Having regard to all the information before the Tribunal, the Tribunal concluded that it was reasonable that an order for eviction be granted and the Tribunal made such an order.

### **FINDINGS IN FACT**

44. The Tribunal found the following facts to be established:-
- a. By Lease dated 9<sup>th</sup> May 2022, the Applicant let the Property to the Respondent.
  - b. The start date of the tenancy was 9<sup>th</sup> May 2022.

- c. The monthly rent was initially £550.00 per calendar month. Rent was increased thereafter.
- d. Arrears of rent arose from June 2022.
- e. The second named Respondent vacated the Property during 2022 and no longer resides there.
- f. The Respondents have been in arrears of rent consistently since June 2022.
- g. A notice to leave was served on 17<sup>th</sup> January 2025. As at that date, arrears of rent amounted to £7,937.94.
- h. As at 28<sup>th</sup> February 2025, the date of proceedings being raised, arrears of rent amounted to £7,936.93.
- i. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
- j. A Case Management Hearing was held on 25<sup>th</sup> August 2025. As at that date arrears of rent amounted to £6,162.89.
- k. The Tribunal adjourned proceedings to a hearing. The First named Respondent gave an assurance that rent would be paid on an ongoing basis and payments would be made to reduce arrears.
- l. A Hearing was held on 2<sup>nd</sup> February 2026. As at that date arrears of rent had increased to £8,519.95.
- m. The First Named Respondent prioritised other debts over payment of rent.
- n. The First named Respondent has entered in to 17 separate arrangements with the Applicants in relation to payment of rent and arrears. He has failed to adhere to any of those agreements over a number of years.
- o. The First Named Respondent did not adhere to the assurance provided when the Tribunal adjourned proceedings to a hearing.
- p. The First named Respondent has been in receipt of universal credit including a housing element. The arrears of rent, therefore, are not as a result of any delay nor failure in the payment of any relevant benefit.

## **REASONS FOR DECISION**

### **Eviction**

- 45. The Respondent has been in arrears of rent since very shortly after the tenancy commenced.
- 46. While the Tribunal acknowledges that the First Respondent has had various personal and health issues to contend with, he has had a number of years to deal with those matters and to resolve the issue in relation to rent arrears and ongoing payment of rent. He has consistently failed to do so.
- 47. The First Respondent has, by his own admission, entered into no less than 17 arrangements for payment of arrears and has failed to adhere to any such arrangement.
- 48. Following the Case Management Discussion on 25<sup>th</sup> August 2025 the First Respondent had a further opportunity to evidence his ability to make payment of rent and to reduce arrears. He failed to do so.

49. By his own admission, he thereafter prioritised other debts over his payment of rent in the full knowledge that this application was before the Tribunal and that an eviction order was being considered.
50. While the First Respondent indicates that he is hopeful of returning to work at some point, there can be no certainty as to when he will be fit to work or when he would be able to secure any employment.
51. While the First Respondent expects to receive a significant payment from his mother's estate, there is no information available to indicate the exact amount he will receive or when any such payment will be made to him.
52. Having regard to the interests of the First Respondent's son, while the Tribunal acknowledges that he is at university and in his final year, this is something which has been within the knowledge of Mr Fletcher throughout the tenancy and, indeed, throughout the currency of these proceedings. Mr Fletcher has failed to prioritise the needs of his son and it is not appropriate nor reasonable that the Applicant is expected to bear the responsibility of protecting the interests of Mr Fletcher's son when Mr Fletcher has failed to do so himself.

## **PAYMENT ORDER**

53. When the payment action was raised the amount claimed by the Applicant was £7,936.93.
54. While the arrears of rent now exceeded that figure, Mr Adams did not seek to amend the sum claimed. He sought a payment order in the sum of £7,936.93.
55. Mr Fletcher accepted that a sum of not less than £7,936.93 was due to the Applicant. He did not oppose the making of a payment order.
56. While the Tribunal considered whether a time to pay direction should be made, Mr Fletcher was not able to make any offer of payment which would enable the amount due to be paid within a reasonable period of time. In the circumstances, no time to pay direction was made.
57. While the Second Named Respondent no longer resides at the Property the Tribunal had no information before it to suggest that her interest in the tenancy had been lawfully terminated. The legal provisions in relation to the termination of a tenancy by a tenant are contained in the following provisions of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"):-

s44 of the 2016 Act provides as follows :-

***No termination by parties except in accordance with this Part***  
*A tenancy which is a private residential tenancy may not be brought to an end by the landlord, the tenant, nor by any agreement between them, except in accordance with this Part*

s48 of the 2016 act states: -

**Tenant's ability to bring tenancy to an end**

(1) A tenant may bring to an end a tenancy which is a private residential tenancy by giving the landlord a notice which fulfils the requirements described in section 49.

(2) A tenancy comes to an end in accordance with subsection (1) on the day on which the notice states (in whatever terms) that it is to come to an end.

(3) But a tenancy does not come to an end in accordance with subsection (1) if—

(a) before the day mentioned in subsection (2), the tenant makes a request to the landlord to continue the tenancy after that day, and

(b) the landlord agrees to the request.

(4) In subsections (1) and (3), in a case where two or more persons jointly are the landlord under the tenancy, references to the landlord are to any of those persons

s49 of the 2016 states as follows: -

**Requirements for notice to be given by tenant**

(1) A notice fulfils the requirements referred to in section 48(1) if—

(a) it is given—

(i) freely and without coercion of any kind,

(ii) after the tenant begins occupying the let property,

(b) it is in writing, and

(c) it states as the day on which the tenancy is to end a day that is after the last day of the minimum notice period.

(2) A notice is to be regarded as fulfilling the requirements referred to in section 48(1), despite its not complying with the requirement described by subsection (1)(c), if the landlord agrees in writing to the tenancy ending on the day stated in the notice.

(3) In subsection (1)(c), “the minimum notice period” means a period which—

(a) begins on the day the notice is received by the landlord, and

(b) ends on the day falling—

(i) such number of days after it begins as the landlord and tenant have validly agreed between them, or

(ii) if there is no such valid agreement, 28 days after it begins.

(4) An agreement as to the number of days after which a minimum notice period ends is invalid for the purpose of subsection (3)(b)(i) if the agreement—

(a) is not in writing, or

(b) was entered into before the tenancy became a private residential tenancy.

(5) In a case where two or more persons jointly are the landlord under the tenancy, references in this section to the landlord are to any one of those persons.

s78(3) of the 2016 act states as follows: -

**Interpretation**

*(3) In a case where two or more persons jointly are the tenant under a tenancy, references in this Act to the tenant are to all of those persons unless stated otherwise.*

58. Given the arrears of rent are accepted by Mr Fletcher, and that the Second Named Respondent did not enter or oppose the application, the Tribunal granted a payment order in favour of the Applicant.
59. The application sought interest at the rate of 3% per annum on any payment order made. The Tribunal awarded interest at that rate.

**DECISION**

The Tribunal granted an order against the Respondents JOINTLY AND SEVERALLY AND SEVERALLY for payment of the undernoted sum of SEVEN THOUSAND NINE HUNDRED AND THIRTY SIX POUNDS AND NINETY THREE PENCE (£7,936.93) STERLING to the Applicant, with Interest thereon at the rate of 3 per centum per annum (3%) running from 2<sup>nd</sup> February 2026 until payment.

**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.**

**V Crawford**

**2<sup>nd</sup> February 2026**

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**Legal Member/Chair**

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**Date**