



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

Case reference FTS/HPC/EV/25/2097

Re: Property at 176 Bank Street, Coatbridge, ML5 1ET (House)

Parties:

Mrs Samia Ashraf, (Applicant)

Mr Dariusz Gornik, Mrs Sandra Robaczynska (Respondent)

Tribunal Members:

Melanie Barbour (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. An application was made under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment and an order for recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.

2. The application contained: -
 - a. the tenancy agreement,
 - b. the notice to leave with evidence of service
 - c. section 11 Notice with evidence of service
 - d. rent statement
 - e. emails to the tenant about rent arrears

3. A case management discussion took place on 9 February 2026. In attendance was the applicant's agent, Mr Commins from Amarco Estates Ltd. Notice of the Case Management Discussion had been made by the sheriff officers on 17 December 2025. The respondent did not appear. The tribunal was prepared to proceed in their absence, given they had notice of the Case Management Discussion.

Discussion

4. The applicant's agent advised that the applicant was seeking an order for recovery of possession of the property under ground 12 (three months' rent arrears).

5. He advised that the rent arrears had been increasing since the application was made and were now over £30,000..

6. The agent advised that the respondents have never paid any rent at all. The landlords have businesses. They were not sure what to do to get the respondents out; they instructed the agent last year. The agent had been to the property and sent letters to the respondents but there was no response at all from them. They did not know if there are children in the property. They believed that the male respondent works. There were no known benefit or health issues. Rent arrears were still accruing, and there was no payment arrangement in place; accordingly, he sought an order for eviction.

7. In relation to the landlord's circumstances, they ran businesses. They had mortgages to serve, and this was causing them financial detriment and stress.

Findings in Fact

8. The Tribunal found the following facts established: -
9. There existed a private residential tenancy.
10. The tenant was Darius Gornik and Sandra Robaczynska.
11. The landlord was Samia Ashraf
12. The property was 176 Bank Street, Coatbridge.
13. It had commenced on 13 September 2018.
14. The tenancy stated that rent was £500 a calendar month payable in advance.
15. There was submitted a notice to leave dated 21 February 2025, stating that an application would not be made until 27 March 2025. It sought eviction under ground 12 rent arrears. It set out that the respondent had been in rent arrears for more than three consecutive months. The notice to leave had been posted to the tenants. There was evidence of service.
16. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service.
17. On 21 February 2025 the rent arrears were £24,000.
18. On 9 February 2026, the rent arrears were now in excess of £30,000.00.
19. There were arrears on the rent account since September 2018.
20. There had been no payment to rent.
21. There was evidence that the pre-action protocol requirements had been followed.
22. There was no evidence of failure or delay in any benefit payment to the respondent.
23. The respondent never paid any rent. The arrears had been steadily accruing.
24. The respondent had failed to enter into a repayment arrangement with the landlords

Reasons for Decision

25. Section 51 of the 2016 Act provides the Tribunal with the power to grant an order for eviction for a private residential tenancy if it finds that one of the grounds in Schedule 3 of the Act applies.

26. The ground which the Applicant seeks eviction under is ground 12. It is in the following terms :-

12 Rent arrears

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

*(2) [...]*²

(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 [—] ³ [

(a) 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, and

(b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.] ³

(5) For the purposes of this paragraph— ...

27. The applicant's agent confirmed that they sought an order for eviction based on the fact that the respondent had been in rent arrears for three or more consecutive months. When the notice to leave was served on February 2025 the respondent had been in rent arrears for over three months. The arrears had started to accrue from the beginning of the tenancy. There did not appear

to be any benefit issues which were causing the arrears. The first part of ground 12 was met.

28. Given that the first part of the ground is met, the tribunal is therefore required to proceed to consider if it would be reasonable to grant the order.

29. We find it would be reasonable to grant the order for eviction; in coming to this conclusion, we took into account the following matters:-

30. The arrears were now more than £30,000.00. Arrears had been accruing since the beginning of the tenancy. The respondents had made no payments at all towards the rent or arrears. There were no proposals to repay the arrears.

31. The respondent are a couple, at least one was believed to be in employment.

32. In respect of the landlords, they had business interests. They had mortgages to pay. This was having a detrimental impact on their finances and causing them stress.

33. The tribunal was not aware of any particular mitigation on the part of the respondent. The respondent had been served with the application papers, the notice to leave and the pre-action letters and had not responded to any contact made; and did not appear to oppose the application. Given all of the above, and especially that the arrears are now over £30,000.00. We consider it would be reasonable to grant an order for eviction.

34. Accordingly, considering the papers before us and the oral submission by the applicant's agent, the tribunal was prepared to grant the order for recovery of possession, given that the first part of ground 12 was met and in all the circumstances it appeared to us to be reasonable to grant the order.

Decision

35. The Tribunal grants an order in favour of the Applicants against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Melanie Barbour

10 February 2026

Legal Member/Chair

Date