



**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 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/EV/25/2284**

**Re: Property at 72 Glebe Street, Hamilton, ML3 6UD (“the Property”)**

**Parties:**

**Mr Jeremy Finn, 4 Shirehall Park, London, NW4 2QL (“the Applicant”)**

**Ms Dawn Murphy, 72 Glebe Street, Hamilton, ML3 6UD (“the Respondent”)**

**Tribunal Members:**

**Sarah O'Neill (Legal Member) and Frances Wood (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order for recovery of possession should be granted in favour of the Applicant against the Respondent. The tribunal delayed execution of the order until 24 April 2026.**

1. An application was received on 28 May 2025 from the Applicant’s representative, Independent Mortgage and Property Services, on behalf of the Applicant. The application was made under Rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (‘the 2017 rules’) seeking recovery of the property under Ground 12 (rent arrears) as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form were:
  - (i) Paper apart setting out further details about the application.
  - (ii) Copy private residential tenancy agreement between the parties, which commenced on 1 May 2022.
  - (iii) Copy Notice to Leave dated 25 April 2025 citing grounds 11 and 12, and stating the date before which proceedings could not be raised to be 26 May 2025.

- (iv) Copy rent statement showing the Respondent's outstanding rent arrears to be £1400 as at 1 May 2025.
  - (v) Copy notice to South Lanarkshire Council under section 11 of the Homelessness etc. (Scotland) Act 2003.
  - (vi) Copy rent increase notice relating to the property dated 6 June 2024.
3. Following requests from the tribunal administration, further information was received from the Applicant's representative on 4 July and 11 September 2025.
  4. The application was accepted on 6 October 2025.
  5. Notice of the case management discussion (CMD) scheduled for 10 March 2025, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the tribunal on 22 January 2026. The Respondent was invited to submit written representations by 11 February 2026.
  6. The tribunal issued a direction to the Applicant on 13 February 2026, directing him to produce an updated rent statement. A response was received from the Applicant's representative on 18 February 2026.
  7. No written representations were received from the Respondent prior to the CMD.

### **The case management discussion**

8. A CMD was held by teleconference call on 10 March 2026 to consider the application. The Applicant was represented by Mrs Fiona Dickson of Independent Mortgage and Property Services. The Respondent was present on the call and represented herself.

### **Preliminary issues**

9. The tribunal noted that the Notice to Leave had been sent by recorded delivery post, and that while a certificate of posting had been submitted, no proof of delivery had been received. The tenancy agreement provided that notices were to be served by email, but in terms of section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010, a notice may also be served by recorded delivery post. The Respondent confirmed that she had received the Notice to Leave through the post. The tribunal was therefore satisfied that it had been validly served on her.

10. The tribunal noted that the Notice to Leave cited both grounds 11 and 12, but that the application appeared to be on ground 12 only. Mrs Dickson confirmed that this was correct.

### **Submissions on behalf of the Applicant**

11. Mrs Dickson asked the Tribunal to grant an eviction order in favour of the Applicant against the Respondent. The tenancy of the property had previously been in the name of the Respondent's late partner. She had been living there and was caring for him. After he passed away, she had asked if she could take over the tenancy. She had gotten into arrears at the start of her tenancy, and had never paid the full rent, but had paid it "in dribs and drabs" throughout the tenancy. The Applicant had not taken action sooner because the amount owed was relatively low, and he had hoped that the Respondent may start to pay towards the arrears.

12. The Applicant expected to receive the rent each month, and the Respondent was liable to pay this under the tenancy agreement. The rent had been increased twice during her tenancy, most recently to £415 in October 2024. The Applicant had not increased it since then, as there seemed little point when the Respondent had stopped paying altogether. The current market rent for a similar property in the area was now between £500- £600 per month.

13. There had been discussion in the past regarding a repayment plan, but there had been no formal agreement.

14. The Applicant's representative had been in contact with the Respondent on numerous occasions regarding the arrears. They had had no working telephone number for her for some time, so all contact had been by email. The Respondent had not been in contact with them for some time.

15. The Applicant owns around 30-40 rental properties, and is a very responsive landlord. There is no mortgage over the property, but he has maintenance and other costs to pay and relies on rent coming in to cover these. He had been very patient with the Respondent for several years before making the application. The arrears were £1400 at the time of the application, but the Respondent had paid no rent at all since April 2025, after the Notice to Leave was served. She now owed a total of £5135. Given the low rent, these were significant arrears. The Applicant's representative had been in contact with universal credit, which had confirmed that the Respondent was receiving payments from them to cover her rent, but nothing had been received from her.

### **The Respondent's submissions**

16. The Respondent accepted that she had been in arrears for more than three consecutive months, and that she now owed £5135 in arrears, as shown in the updated rent statement submitted by the Applicant's representative.
17. She said that after her partner died in April 2022, she had gone back to work but was struggling with depression. She had taken time off work as a result, and was sacked due to her absences. She had then found some agency work in a factory and was working occasional days in this job. She was not receiving universal credit due to her earnings, which were erratic. She had then found another job, but had to take further time off to care for her mother and another family member who had become unwell.
18. She was then receiving statutory sick pay of around £98 per week, and did not receive any other benefits. She had stopped paying her rent at that point. She had received one payment from universal credit only at some point during 2025, although she was unsure exactly when this had been.
19. Since November 2025, she has been in full time employment at a factory in Livingston, and is trying to pay off her debts. She admitted that she had not paid her rent, as she owed money to family members who had loaned her money over the Christmas period.
20. The Respondent said that she wished to stay in the property, and was now in a position to pay her rent each month plus £20 per week towards the arrears.
21. She lives in the property alone. Her children are grown up. She suffers from anxiety and depression and sees her doctor about this. She has stopped taking medication for her condition, as she does not wish to be reliant on this.
22. She had been in contact with the council, who told her it was unable to help her unless she stayed in the property and waited for the tribunal process to come to a conclusion. She wants to stay in Hamilton, and based on what she has been told, she believes the council would find her alternative accommodation were she to be evicted from the property.

### **Further submissions for the Applicant**

23. Mrs Dickson said that the Applicant would not accept the offer of repayment which the Respondent had made. She said that it would take at least five years to pay off the arrears at that rate. She also pointed out that the Applicant was likely to increase the rent in future, which would likely lead to further arrears.

She said that it was hard to trust what the Respondent said, given what had happened in the past.

## **Findings in fact**

24. The Tribunal made the following findings in fact:

- The Applicant owns the property jointly with Mrs Ruth Finn, who confirmed on 2 July 2025 that she was happy for him to pursue the application.
- The Applicant and Mrs Finn are joint registered landlords of the property.
- The parties entered into a private residential tenancy agreement which commenced on 1 May 2022.
- The initial rent payable under the tenancy agreement was £375 per calendar month, payable in advance on the 1st day of each month.
- The rent was increased to £386.21 per month on 1 October 2023 and then to £415 on 1 October 2024.
- The Notice to Leave was validly served on the Respondent by recorded delivery post on or around 26 April 2025.
- The Applicant sent a valid notice to South Lanarkshire Council under section 11 of the Homelessness etc. (Scotland) Act 2003 on 28 May 2025.
- The Respondent had been in rent arrears for more than three consecutive months as at the date of the CMD.
- The Applicant has complied with the pre-action requirements.
- The Applicant has no mortgage over the property.
- The Applicant owns around 30-40 rental properties.
- The Respondent has been in rent arrears since the start of her tenancy.
- The Respondent's being in arrears of rent over the period in question is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
- As at the date of the CMD, the Respondent owed the Applicant £5135 in rent arrears.
- The Respondent lives alone in the property.
- The Respondent has been in full time employment since November 2025.

## **Reasons for decision**

25. The Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties. While the Respondent indicated that she wished to remain in the

property, she did not dispute that she owed the arrears, and did not indicate that she wished to oppose the application on the grounds of reasonableness.

26. The Tribunal considered whether Ground 12 (rent arrears) had been met. Ground 12 states:

**Rent arrears**

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

*(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—*

*(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.*

27. The Tribunal noted from the updated rent statement provided by the Applicant that, while the amount owed had fluctuated over time, the Respondent had been in rent arrears for more than three consecutive months at the date of the CMD. The Respondent did not dispute this.

**Reasonableness**

28. The tribunal then considered whether it was reasonable to issue an eviction order in all the circumstances of the case. In doing so, it took into account all of the evidence before it.

29. The tribunal noted that the Applicant's representative had sent several pre-action letters and emails to the Respondent prior to making the application. The Applicant had accordingly complied with the pre-action requirements. The Tribunal was also satisfied that the arrears were not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

32. The tribunal noted that the Applicant owns a considerable number of rental properties and that there is no mortgage over the property. He does however have other costs to pay in connection with the property.
32. The tribunal considered the Respondent's personal circumstances. She has been living in the property for almost four years and has been in some level of arrears throughout that time. She had rarely paid the full rent in any one month, often paying smaller sums e.g. £100 on a weekly basis. Her arrears were relatively low throughout her tenancy until around April 2025, when she stopped paying altogether.
33. The tribunal has some sympathy with the Respondent, as she has clearly had a difficult few years both personally and in terms of her employment situation. She has not had a steady income until recently and has found it difficult to maintain her rental payments. She stopped paying altogether, however, in April 2025 and her arrears began to mount up considerably as a result. Had the rent been higher, the situation would have been worse.
34. The tribunal gave particular weight to the fact that the Respondent had paid no rent at all since April 2025, despite having now been in full time employment for several months. The Applicant is entitled to receive the agreed rent each month in terms of the tenancy agreement. He has been reasonable in not pursuing an eviction application sooner and giving the Respondent time to address the rent arrears.
33. The tribunal also gave weight to the fact that the tenancy does not appear to be affordable or sustainable for the Respondent in the longer term. If she were to pay the rent each month in future plus £20 per week towards the arrears, this would take some years to pay. Given the low rent compared to the market rent for the area, it seems likely that the Applicant will wish to increase it again. As there is no longer a rent cap in place, any increase is likely to be greater than previous rent increases.
34. Should this happen, she is likely to fall further behind with her rent. She therefore requires a property that is more affordable for her. If an eviction order is granted, this may help her to secure more affordable social housing.
33. The Tribunal decided that in light of all the above considerations, it was reasonable in all the circumstances to grant an order for eviction in favour of the Applicant against the Respondent.
34. Before deciding to grant the order, the Tribunal had sought the views of both parties on the possibility of delaying execution of the eviction order in terms of rule 16A of the 2017 rules, to give the Respondent more time to arrange the move and to find suitable alternative accommodation.

35. Mrs Dickson was opposed to any delay in execution. She said that if the eviction order were delayed, there would only be more arrears to be added, and that it would just prolong the situation further.
36. The Respondent asked for a couple of additional weeks to give her more time to find alternative accommodation.
36. Having taken into account the views of the parties on delaying execution of the order, the Tribunal considered that it would be reasonable in all the circumstances to delay execution of the order for two weeks until 24 April 2026.

### **Decision**

The tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the property. The Tribunal delays execution of the order until 24 April 2026.

### **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.**

**Sarah O'Neill**

**Legal Member/Chair**

**Date** 10 March 2026