



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/4023

Re: Property at 0/1, 70 Wellington Street, Greenock, PA15 4NG (“the Property”)

Parties:

Mrs Shirley Copeland, 16 Drumslea, Greenock, PA16 7SJ (“the Applicant”)

Ms Megan Higgins, 0/1, 70 Wellington Street, Greenock, PA15 4NG (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr A Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted.

Background

1. This is a Rule 109 application whereby the Applicant is seeking an eviction order under ground 12. The Applicant representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 24th March 2025 at a monthly rent of £550, a notice to leave with evidence of service, a section 11 notice with evidence of service, and a rent statement showing arrears in the sum of £1950.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by personal service by Sheriff Officer on 12th January 2026.
3. By email dated 26th January 2026, the Applicant representative lodged an updated rent statement showing arrears in the sum of £3125.
4. By email dated 20th February 2026, the Applicant representative lodged an updated rent statement showing arrears in the sum of £2600.

The Case Management Discussion

5. A Case Management Discussion (“CMD”) took place by telephone conference on 23rd February 2026. The parties were not in attendance. The Applicant was represented by Mr Ken Caldwell, Solicitor. The start of the CMD was delayed to allow the Respondent to join the call. The Respondent did not join the call.
6. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
7. Mr Caldwell said there has been no recent contact with or communication from the Respondent. There were issues with rent payment from the commencement of the tenancy in March 2025. A notice to leave was served on 15th August 2025. Pre-action correspondence has been issued.
8. Mr Caldwell said the last contact with the Respondent took place in October 2025 following a report from neighbours of the Property door being ajar. There was police involvement at that time, and the Applicant was able to access the Property. The Property appeared to have been trashed, with dog excrement evident. There was also male clothing in evidence. The Respondent then explained there had been a domestic incident and she was returning to the Property that evening. It is understood that the Respondent then continued to occupy the Property with her male partner. In January 2026, a window at the Property was smashed, and the police removed the male occupant. The Respondent has not been seen at the Property for some months, and it is believed she may no longer reside there. Mr Caldwell said the Respondent has no dependants.
9. The outstanding arrears are now £2600. The Applicant has arranged direct payment of benefits from Universal Credit, and a monthly payment of £525, which falls short of the monthly rent by £25, is being paid.
10. The Applicant lets only this property, which is her family home. The experience has been difficult for the Applicant, and she is now considering exiting the rental market.
11. Mr Caldwell submitted that ground 12 was met on account of the rent arrears and the lack of engagement, and that it would be reasonable to grant an order. The reports of damage to the Property should also be taken into account when considering reasonableness.

Findings in Fact and Law

12.

- (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 24th March 2025 at a monthly rent of £550.
- (ii) The Applicant has served a Notice to Leave upon the Respondent.
- (iii) The Respondent has accrued rent arrears.
- (iv) The Respondent has been in rent arrears for three or more consecutive months.
- (v) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
- (vi) The Applicant has complied with the pre-action protocol.
- (vii) The Property has been damaged during the tenancy.
- (viii) It is reasonable to grant an eviction order.

Reasons for Decision

13. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if for three or more consecutive months the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that Ground 12 has been established.
14. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the Respondent was in rent arrears as a result of a delay or failure in the payment of a relevant benefit.
15. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. The Applicant representative has complied with the pre-action protocol by sending pre-action correspondence to the Respondent.
16. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.

17. The Respondent has failed to pay rent lawfully due. There was a period between July and November 2025 when no rent was paid. The rent paid thereafter has been paid as a result of the Applicant securing direct payment from Universal Credit. The Respondent did not see fit to attend the CMD or make any representations to assist the Tribunal in considering reasonableness. The Tribunal took into account the information provided by the Applicant representative. The Respondent has no dependants residing in the Property who would be affected by the granting of an eviction order. The Tribunal was unable to assess the likely effect of an eviction order upon the Respondent in the absence of any representations. The Respondent has disengaged and is making no effort to pay the shortfall of rent or address the arrears. The Tribunal considered it likely that, if no order was granted, the arrears would continue to rise. The Tribunal considered the tenancy is not sustainable. The Tribunal took into account the information provided regarding damage to the Property, and the suspicion that the Respondent may no longer be residing there.
18. The Tribunal took into account the information provided regarding the Applicant's circumstances. The Tribunal considered the Applicant is suffering financially as a result of the Respondent's failure to pay the rent and address the arrears. The Applicant is suffering personally as a result of the Respondent allowing damage to take place to the Property.
19. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend or make representations to the Tribunal to indicate why an order should not be granted, and the Respondent failed to do so. The Tribunal considered it was reasonable to grant the order sought.

Decision

20. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 26th March 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.

Helen Forbes

Legal Member/Chair

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23rd February 2026
Date