



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

Chamber Ref: FTS/HPC/EV/25/3872

Property at 84 Ann Street, Hamilton, ML3 0NE (“the Property”)

Parties:

Mr Ian Lockwood, Mary Lockwood, Old River House, Lullingstone Lane, Eynsford, Dartford, DA4 0HY (“the Applicants”)

Mr Graeme Raymond Hugh Welsh, 84 Ann Street, Hamilton, ML3 0NE (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Janine Green (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 against the Respondent in favour of the Applicant.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and Ground 12 of schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave, rent statement and section 11 notice were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 9 March 2026 at 2pm and they were required to participate.
3. The CMD took place on 9 March 2026. Mr Lockwood participated and was represented by Ms Salem. The Respondent did not participate. A related application for a payment order under reference CV/25/3869 was also discussed.

Summary of Discussion at CMD

4. Mr Lockwood told the Tribunal that the Respondent is still living at the property, as far as he is aware, although there has been no contact for some time. After a short adjournment to allow him to make a telephone call to the letting agent for the property, he told the Tribunal that the arrears are now £17,591 and confirmed that the letting agent has also had no recent contact. The last contact was some time ago when the Respondent allowed access for a leak to be repaired. The Legal Member noted that the Applicants had not provided an updated rent statement or a request to amend the CV case in advance of the CMD, so the application could not be amended to reflect the increased arrears.
5. In response to questions from the Tribunal, Mr Lockwood said that he knows very little about the Respondent, except that he is (or was) in employment with a taxi company. He is not aware on any issues with (or entitlement to) benefits. The property is a one bedroom flat so he probably lives there alone. The property is fully managed by the letting agent as the Applicants do not live locally. Mr Lockwood could not provide a proper explanation for the delay in making the applications, as it had been noted by the Tribunal that the arrears started in 2018. He said that he had some issues with his previous solicitor and that they had to go through the legal formalities, which took some time. He confirmed that they have 4 other properties and have a small mortgage over the property which they are having to pay despite the lack of rental income.

Findings in Fact

6. The Applicants are the owners and landlords of the property.
7. The Respondent is the tenant of the property in terms of a private residential tenancy agreement which commenced in December 2017.
8. The Respondent is due to pay rent at the rate of £310 per month.
9. The Respondent has been in arrears of rent since 2018, and no payments have been made by the Respondent since June 2023.
10. The Respondent currently owes £17,591 in unpaid rent.
11. The Applicant served a Notice to leave on the Respondent on 22 July 2025
12. The Applicant issued emails in compliance with the rent arrears pre action protocol with the Notice to leave.
13. The Respondent has failed to engage with the Applicant in relation to the arrears.
14. The Applicants have mortgage payments in relation to the property and own 4 other rental properties.

Reasons for Decision

15. The application was submitted with a Notice to Leave dated 22 July 2025 together with a copy email to the Respondent which establishes that the Notice was sent to the Respondent on that date. The Notices states that an application to the Tribunal is to be made on ground 12, rent arrears over three consecutive months. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
16. Section 51(1) of the 2016 Act states, “The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”
17. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states “(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in 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.”
18. Sub-Paragraph (4) states, “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 Minister in regulations.” Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant’s rights in relation to eviction proceedings and how the tenant can access information and advice.
19. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Respondent currently owes £17, 591 in unpaid rent and that he has been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Part 1 of Ground 12 is therefore established.
20. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -

- (a) The Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant submitted copy emails sent to the Respondent in compliance with the protocol.
- (b) There is no available information or evidence to suggest that the arrears are attributable to a delay or failure in the payment of a relevant benefit.
- (c) The Respondent did not participate in the CMD or notify the Tribunal whether the application is opposed.
- (d) The arrears are substantial and are increasing. No payments have been made for almost three years.

21. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act that ground 12 has been established. For the reasons outlined in paragraph 20, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

22. The Tribunal determines that an eviction order should be granted against the Respondent.

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:

Josephine Bonnar

Date: 9th March 2026