



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/25/4909

Re: Property at 42 Culzean Avenue, Coatbridge, ML5 5LP (“the Property”)

Parties:

Mr Craig Mitchell, 2 Wards Crescent, Coatbridge, ML5 1JB (“the Applicant”)

Mr Barrie Mitchell, 42 Culzean Avenue, Coatbridge, ML5 5LP (“the Respondent”)

Tribunal Members:

Lindsay Paterson (Legal Member) and Robert Buchan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent had been in arrears of rent for a period of three or more consecutive months and that it was reasonable for an order for eviction to be granted.

Background

1. By application dated 14 November 2025 the Applicant sought an eviction order under Section 51 and Ground 12 of Schedule 3 of the 2016 Act and in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the procedure rules”). A section 11 notice, tenancy agreement, notice to leave, rent statement and pre action emails to the Respondent dated 24 April 2025, 01 May 2025 and 16 May 2025, were all lodged with the application.
2. A copy of the application was served on the Respondent by sheriff officer on 19 March 2026 and parties were notified that a case management discussion (“CMD”) would take place by telephone call on 05 May 2026 at 10am.

The Case Management Discussion

3. The case called for a CMD by way of teleconference on 05 May 2026 at 10am. The applicant, Mr Craig Mitchell, was not present but was represented by Mr Paul Clark of Aquila Management Services. The respondent, Mr Barrie Mitchell was not present for the first part of the teleconference.
4. Prior to the Respondent joining the teleconference call Mr Clark advised the Tribunal that as of 23 April 2026 the rent arrears had reduced to £5144.56. The Applicant wishes to seek an eviction order as, although the arrears have recently reduced, overall they are going in the wrong direction and in Mr Clark's view this is not a case where the issue is likely to be resolved by the Respondent being given some time.
5. The Tribunal asked Mr Clark whether the Applicant and Respondent are related, and Mr Clark confirmed that they are, although he was not aware of the exact nature of the relationship.
6. The Tribunal asked Mr Clark to explain why the rent statement lodged with the application went back to 2014 when the tenancy agreement and the notice to leave state the tenancy commenced on 10 July 2024. Mr Clark advised that the Applicant had instructed Aquila Management Services to assist with recovery of rent arrears shortly before the private residential tenancy ("PRT") had commenced. The Respondent was already living in the property at that time but there were issues with the tenancy agreement and Mr Clark had advised that a PRT be drawn up in July 2024.
7. Mr Clark advised that Aquila Management Services do not fully manage the tenancy. They do not collect the rent and the information in respect of the arrears and payments made was passed to them by the Applicant.
8. Mr Clark acknowledged that the arrears stated to be owed in email correspondence to the Respondent included £900 of arrears relating to the previous tenancy. He also acknowledged the figure of arrears stated to be due in an email to the tenant dated 24 April 2025 appeared to be incorrect and that the figure of £3764.38 provided in the later email of 01 May 2025 was correct. Mr Clark advised the reason for the error in the email of 24 April 2025 was that the landlord had provided a breakdown of rent due and payments made in a pdf and had provided the figure for the arrears which must have been miscalculated. In the later letter this information had been put in a spreadsheet which added the figures together and provided the correct total sum of arrears.
9. Mr Clark submitted that despite the error in the email of 24 April 2025 the Respondent had still been provided with clear information on the level of arrears as required by the pre-action requirements. Mr Clark advised that all subsequent correspondence had included the correct figure of arrears and the Respondent had been provided with regular rent statements.
10. Mr Clark advised that he had spoken to the Respondent on the telephone 2 or 3 times but had not been provided with any reasons why the rent was in arrears. The Respondent had advised that he would address the arrears, but Mr Clark said this had failed to happen.
11. Mr Clark advised he was unsure if the Applicant had a mortgage on the property or not. Mr Clark told the tribunal the Applicant had told him that he

was struggling to make payments as a result of the arrears but Mr Clark was unclear if these were mortgage payments or other expenses.

12. Mr Clark was unable to provide the Tribunal with information about who lived in the property with the Respondent, but he advised that he thought the Respondent had children living with him. Mr Clark was not able to advise whether the Respondent or anyone living with him had any health problems. He accepted that, particularly in light of the family relationship between them, the Applicant would likely have information on the Respondent's family circumstances.
13. After hearing from Mr Clark, the Tribunal adjourned to discuss matters. The Tribunal was of the view that further information was required to establish whether it was reasonable to evict. In particular, the Tribunal felt it was important to know whether the Respondent had any children and, if so, how old they were and noted this information could be provided by the Applicant.
14. When the hearing reconvened Mr Clark advised that he had attempted to call the Applicant during the break and had accidentally telephoned the Respondent instead. Mr Clark advised he had been told by the Respondent that he had been unable to join the call but would be willing to join in the call if the tribunal was able to dial him in. Mr Clark provided the Respondent's telephone number to the tribunal.
15. Thereafter the tribunal clerk telephoned the Respondent and provided him with the teleconference dial in details.
16. The Respondent joined the teleconference at this point and advised he had intended to join the CMD at 10am but had been unable to join the conference call as he was at work and, although he had written down the telephone number for the call, he had not written down the joining code and had therefore not been able to access the teleconference.
17. The Respondent advised that he did not wish to oppose the granting of an eviction order. He advised that the property was now too small for his family and he had been to the local authority to seek alternative larger accommodation.
18. The Respondent advised the tribunal that he had been told he would be given higher priority for accommodation with an eviction order.
19. The Respondent confirmed that he had lived in the property prior to signing the new tenancy agreement in July 2024.
20. The Respondent admitted that he was in arrears of rent and that he had been for at least three consecutive months. The Respondent advised that he was a self-employed tiler and had experienced a period of financial difficulty over a few years, due to the effects of the pandemic.
21. The Respondent told the tribunal that he receives universal credit which pays some of the rent for him. He advised there appeared to be two occasions where universal credit had not paid his rent. He advised he thought this must be because he did not provide the information needed to process the payment in time but he did not realise the payments had not been made until later when he saw a rent statement. He advised that he had not sought any advice about this.
22. The Respondent advised that he had received regular rent statements from Mr Clark.
23. The Respondent advised he lives in the property with his wife and their three children aged 16,9 and 4. His 16 year old is no longer at school. His 9 year

- old attends the local primary school and his 4 year old is due to start there in the summer.
24. The Respondent told the tribunal that the family requires a bigger property, a four-bedroom house, and that he has been to the local authority to discuss this.
 25. The Respondent advised that there has been a shortage of four-bedroom housing in the area but that new properties, including four-bedroom properties are being built at present. The Respondent advised that he had been told that he would be more likely to get one of these houses if an eviction order was granted, although he accepted it was not guaranteed.
 26. The Respondent was aware that he may be required to spend a period of time in "scattered" accommodation if an eviction order was granted and he advised that staying with family was also an option.
 27. The Respondent advised that the Applicant is his uncle and godfather and that the situation with the tenancy is causing family tension. The Respondent told the Tribunal that he wanted to have an eviction order granted so that he could move out of the property, seek more suitable alternative accommodation and bring the matter to an end.
 28. The Tribunal asked the Respondent whether, if the Tribunal decided it was reasonable to grant an order, he would wish enforcement to be delayed for a period. The Respondent advised that this would be helpful but he was unsure how much time he would require. He noted that the new properties were not going to be available until 2027.
 29. When asked for his view on a delay in enforcement of the order, Mr Clark advised that he felt a period of delay was simply delaying the inevitable and that the local authority were unlikely to offer the Respondent alternative accommodation until an eviction was due to take place. He advised that in practise it would likely take around 3 months for the eviction to take place. The Respondent advised that three months would be enough time for him to make alternative arrangements.

Findings in Fact

30. The Applicant is the owner and landlord of the property.
31. The Respondent is the tenant of the property and lives there with his wife and three children aged 16,9 and 4.
32. Parties entered into a PRT on 10 July 2024. The rent due under the PRT was £600 per month.
33. The Respondent is a self-employed tiler and experienced financial difficulties as a result of the pandemic. He fell behind in his rent payments but has offered to pay off the arrears and made a recent payment which reduced the balance owed.
34. On 2 June 2025 the Applicant served upon the respondent a notice to leave as required by the Act.
35. Prior to serving the notice to leave the Applicant provided the Respondent with information about the amount of rent due, the level of arrears and sources of advice and assistance. The Applicant offered the Respondent an opportunity to enter into a repayment arrangement in respect of the arrears.
36. The Respondent has been in arrears of rent for at least three consecutive months.

37. The property is overcrowded for the Respondent's family and no longer suitable for their needs.
38. The Respondent has spoken to the local authority who have advised that he requires a four-bedroom property.
39. The Respondent has been advised that if an eviction order is granted against him, he will have more priority for rehousing.
40. The Respondent does not oppose the application.

Reasons for Decision

41. The ground for eviction under which this application was made is the ground contained within paragraph 12 of schedule 3 of the 2016 Act. The ground is that the tenant has been in rent arrears for three or more consecutive months.
42. The Tribunal was not satisfied, on the basis of the information available at the hearing, that the sum claimed to be due as rent arrears - £5144.56- was correct, as £900 of the arrears appeared to have been accrued prior to the tenancy starting and there is a possibility of a universal credit error affecting two payments of rent. However, the Respondent admitted, and the Tribunal accepted, that, notwithstanding these issues, he had been in arrears of rent for three consecutive months. On that basis, the Tribunal accepted that ground 12 had been established.
43. The Tribunal found that the pre-action requirements had been met and the correct notices sent prior to the action being raised.
44. The Tribunal considered whether it was reasonable to evict. It considered the information provided by Mr Clark that the Applicant was struggling to make unspecified payments due to the arrears. The Tribunal also considered the information provided by the Respondent that the arrears had arisen due to financial difficulties caused by the pandemic; he was willing to make payments to reduce the arrears; the arrears had recently reduced and that the Respondent has three children living with him. The main reason the Tribunal considered it was reasonable to evict was that the Respondent did not wish to oppose the order being granted and advised he wanted an eviction order to be granted as he had been told it would assist him in his efforts to find more suitable accommodation.
45. The Tribunal considered it was reasonable to allow a period of three months before the order could be enforced to allow the Respondent time to source alternative accommodation with the local authority.

Decision

46. The Tribunal decided that an eviction order should be granted against the Respondent but that the date of enforcement should be no earlier than 05 August 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.

Lindsay Paterson

05 May 2026
Date