

Housing and Property Chamber

First-tier Tribunal for Scotland



Decisions with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 51 and 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Refs: FTS/HPC/EV/25/4278 and FTS/HPC/CV/25/4730

Re: Property at 288 Main Street, Bellshill ML4 1AB (“the Property”)

Parties:

Mr Wasim Arshad, 21 Arran Gardens, Hamilton, ML3 7NZ (“the Applicant”) and

Austin Lafferty Solicitors, 213 Edinburgh House East Kilbride G74 1LJ (“the Applicant’s Representative”) and

Mr Anthony Aloysius McAllister, 288 Main Street, Bellshill ML4 1AB (“the First Respondent”) and

Ms Karen Anne McInnes, 288 Main Street, Bellshill ML4 1AB (“the Second Respondent”)

Tribunal Members:

G McWilliams- Legal Member

M Lyden - Ordinary Member

Decisions in absence of the Respondents

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines as follows:

- 1) To grant an eviction order; and**
- 2) To grant an order for payment to the Applicant, Mr Wasim Arshad, by the Respondents, Mr Anthony Aloysius McAllister and Ms Karen Anne McInnes, jointly and severally, of the sum of £5975.50.**

Background

- 1. These are Applications for an eviction order in terms of Rule 109 (Application for an eviction order) and for a payment order in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of The First-tier**

Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

Case Management Discussion on 26th May 2026

2. A Case Management Discussion (“CMD”) proceeded by remote teleconference call at 10am on 26th May 2026.
3. The Applicant Mr Arshad’s Representative’s, Ms A Ramzan, attended. The Respondents, Mr McAllister and Ms McInnes, did not attend, were not represented and there was no explanation for their absence. The Tribunal had noted that Sheriff Officers had served the Applications’ papers, as well as notification details of the CMD, on Mr McAllister and Ms McInnes by posting papers through the letterbox at the Property on 27th April 2026.
4. Ms Ramzan referred to the Applications, and the rent statements which she had sent to the Tribunal’s office. She stated that Mr Arshad understands, from discussions with residents of other properties near to the Property, that Mr McAllister and Ms McInnes remain resident in the Property. She said that Mr McAllister and Ms McInnes are not communicating with Mr Arshad, are not allowing access for inspections and have not paid rent for a number of months. Ms Ramzan stated that Mr Arshad seeks the grant of an eviction order, on the ground that Mr McAllister and Ms McInnes have been in arrears of rent for three or more consecutive months, and also seeks a payment order in terms of Application Reference Number CV/25/4730. Ms Ramzan accepted that a rent increase of £250.00 should not have been applied to the rental account for the Property in June 2025 and said that the payment order sum which Mr Arshad seeks is in the sum of £5,975.50. Ms Ramzan said that she was content to leave the issue of whether or not interest should be applied in respect of any payment order sum to the Tribunal’s discretion. She acknowledged that there was no contractual interest clause in the parties’ private residential tenancy agreement (“PRT”).

Findings in Fact and Law and Reasons for Decisions

5. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) the Tribunal is to issue an eviction order under a PRT if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
6. Schedule 3 (12) (1) to the 2016 Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
7. Section 71 of the 2016 Act provides as follows:
 - (1) In relation to civil proceedings arising from a private residential tenancy-
 - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
 - (b) a sheriff does not have competence or jurisdiction.
 - (2) For the purposes of subsection (1), civil proceedings are any proceedings other than-

- (a) the prosecution of a criminal offence,
- (b) any proceedings related to such a prosecution.

8. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicants) for an eviction order and order for payment of unpaid rent against a tenant (such as the Respondent) in respect of a tenancy agreement such as the tenancy agreement of the parties.
9. Having considered all of the Applications papers and the submission of Ms Ramzan, the Tribunal find in fact that the Applicant has provided the Tribunal, in his Application for an eviction order, with copies of the parties' PRT, the Notice to Leave ("NTL") served on Mr McAllister and Ms McInnes and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice which was intimated to North Lanarkshire Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. The NTL, and the Application for an eviction order, proceed in terms of Schedule 3 (12) (1) to the 2016 Act. The Tribunal further finds in fact that when the NTL was served on Mr McAllister and Ms McInnes, on 5th September 2025, they had been in rent arrears for three consecutive months, and that when both Applications were lodged with the Tribunal's office, in November 2025, Mr McAllister and Ms McInnes were in rent arrears of £5975.50.
10. In making their findings in fact the Tribunal relied on the documentation within the Applications and, in particular, on the oral and written submissions of Ms Ramzan, the terms of which were consistent with the terms of the relevant documentation.
11. The Tribunal, in making their findings in fact, also placed reliance on the absence of any contradictory information or submissions from the Respondents, Mr McAllister and Ms McInnes. The papers in respect of both Applications had been served effectively on them on 27th April 2026. They are aware of the important nature of the Applications but have not lodged any representations regarding the merits of the Applications and the reasonableness of the grant of the orders sought. The Tribunal's office has not received any communications from Mr McAllister and Ms McInnes or any representatives or advisers acting on their behalf.
12. Accordingly, the Tribunal find in law that the ground in Schedule 3 (12) (1) of the 2016 Act is met as the Respondents, Mr McAllister and Ms McInnes, have been in rent arrears for three or more consecutive months and that it is reasonable that an eviction order be granted. The Tribunal also find in law that Mr McAllister and Ms McInnes are obliged to pay rent to the Applicant, Mr Arshad, in terms of the parties PRT, and, having not done so consistently, had rent arrears in the sum of £5975.50 when these Applications were submitted. The Tribunal therefore find that the Applicant, Mr Arshad, is entitled to an order for the Respondents Mr McAllister and Ms McInnes' payment to him of the sum of £5975.50. The Tribunal do not consider it fair or reasonable to apply interest to this sum, in particular given that some of the rent arrears owing arose after Mr Arshad's application of a substantial rent increase in July 2025.

Decisions

13. Therefore, the Tribunal makes an order for eviction of the Respondents, Mr Anthony Aloysius McAllister and Ms Karen Anne McInnes, from the Property at 288 Main Street, Bellshill ML4 1AB, and, also, an order for payment to the Applicant, Mr Wasim Arshad, by the Respondents, Mr Anthony Aloysius McAllister and Ms Karen Anne McInnes, jointly and severally, of the sum of £5975.50.

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.

G McWilliams

26th May 2026

Legal Member