



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for eviction/ possession of a Rented Property in terms of Rule 109 of the Procedure Rules.**

**Chamber Ref: FTS/HPC/EV/24/5176**

**Re: 25 Christchurch Place, East Kilbride, G74 4LZ ('the Property')**

**Parties:**

**Heather Sweeney residing at 2 Coleridge, East Kilbride, G75 8RD ('the Applicant')**

**Jack Rennie, Anderson Strathern, Solicitors ('the Applicant's Representative')**

**Laura Watson residing at 25 Christchurch Place, East Kilbride, G74 4LZ ('the Respondent')**

**Claire Haining, Money Matters Advice Service ('the Respondent's Representative')**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')**

**Tribunal Members: Jacqui Taylor (Legal Member) and Nick Allan (Ordinary Member)**

## **1. Background**

1.1. The Applicant submitted an application to the Tribunal for eviction/ possession of the Rented Property under section 51(1) of the Private Housing Tenancies (Scotland) Act 2016, in terms of Rule 109 of the Procedure Rules.

1.2 The application was dated 8<sup>th</sup> November 2024. The application stated that the ground for eviction was as follows:

'Ground 12: The Respondent is in arrears over three consecutive months.'

1.3 Documents lodged with the Tribunal were:-

- Private Residential Tenancy Agreement between the parties dated 5<sup>th</sup> January 2022.
- A rent statement for the period to 31<sup>st</sup> December 2021 to 1<sup>st</sup> November 2024 showing arrears of £2325.
- Notice to Leave dated 2<sup>nd</sup> October 2024 advising the Respondent that an application for an eviction order on the ground that there has been rent arrears over three consecutive months will not be submitted to the Tribunal before 3<sup>rd</sup> November 2024 .
- Email from the Applicant's Representative to the Respondent dated 2<sup>nd</sup> October 2024 with notice to leave and rent statement attached.
- Section 11 Notice addressed to South Lanarkshire Council.
- A delivered receipt email from South Lanarkshire Council dated 11<sup>th</sup> November 2024.

2. By Notice of Acceptance by Mary-Claire Kelly, Convener of the Tribunal, dated 4<sup>th</sup> December 2024 she intimated that she had decided to refer the application (which application paperwork comprises documents received on 11<sup>th</sup> November 2024) to a Tribunal.

### **3. The First Case Management Discussion (CMD)**

This case called for a conference call CMD at 14.00 on 16<sup>th</sup> May 2025.

Miss Gail Robertson, the finance manager of Property Store EK Limited attended the CMD.

Respondent had been served with a letter advising her of the CMD by Andrew McLean, Sheriff Officer on 4<sup>th</sup> March 2024. The Tribunal clerk unsuccessfully tried to contact the Respondent by phone at 2pm on 16<sup>th</sup> May 2025. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

#### **3.1 Oral Representations at the First CMD:**

Miss Robertson advised the Tribunal:

- 3.1.1 The Landlord is seeking an eviction order.
  - 3.1.2 The rent arrears are currently £4235.65.
  - 3.1.3 They last received a rent payment on 19<sup>th</sup> February 2025 in the sum of £375.
  - 3.1.4 The Respondent is a sole tenant and lives in the Property on her own.
  - 3.1.5 The Property has not been adapted.
  - 3.1.6 The Respondent lost her job and the DWP were remitting rental payments of £375 per month but these payments have stopped.
  - 3.1.7 The Respondent is not engaging with them. They requested access to the Property in January but access was not granted.
  - 3.1.8 Preaction letters were sent to the Respondent dated 10<sup>th</sup>, 12<sup>th</sup> and 27<sup>th</sup> September 2024. She will send copies to the Tribunal.
  - 3.1.9 She acknowledged that an updated rent statement has not been provided.
  - 3.1.10 The Property Manager sent the Tribunal an email dated 23<sup>rd</sup> April 2025 regarding the Respondent's anti social behaviour.
- The clerk advised the Tribunal had not received the email of 23<sup>rd</sup> April 2025.

### **3.2 Outcome of the First CMD.**

The Tribunal determined that the application should proceed to a continued CMD to allow time for the Applicant's Representative to provide the Tribunal with a copy of the email dated 23<sup>rd</sup> April 2025 referred to by the Applicant's Representative, copies of the preaction letters sent to the Respondent and a copy of the updated rent statements.

## **4. The Additional Documents lodged by the Applicant.**

- 4.1 Rent Statement dated 16<sup>th</sup> May 2025 for the period 31<sup>st</sup> January 2022 to 1<sup>st</sup> May 2025 showing rent arrears of £4235.65.
- 4.2 A copy of preaction emails to the Tenant dated 10<sup>th</sup> September 2024, 12<sup>th</sup> September 2024 and 27<sup>th</sup> September 2024.
- 4.3 An email from the Tenant's neighbour dated 27<sup>th</sup> May 2025 explaining that they had contacted RSPCA as they were concerned about the welfare of the Tenant's dog.
- 4.4 Redacted emails from the Tenant's neighbour dated June and July 2025 regarding rubbish and empty cans left outside, under the window of the Property. The can lids had been opened in such a way that the edges were jagged and sharp. Photographs were provided.

4.4 Email from the Applicant's Representative dated 26<sup>th</sup> August 2025 which states that Police Scotland carried out a welfare check on the Tenant and they have advised her that the Tenant is under hospital care. Her dog was found dead in the Property and they have a right of access application pending.

## **5. The Second CMD.**

This case called for a conference call CMD at 14.00 on 17<sup>th</sup> October 2025.

Ms Ann Kelly, the Lettings Manager with Slater Hogg and Howison, the Applicant's Representative, attended the CMD.

The Respondent did not attend.

Ms Kelly advised the Tribunal:

5.1 She had sent the Tribunal an updated rent statement on 16<sup>th</sup> October 2025. The rent arrears amounted to £7110.65 and the last payment towards the rent had been made in February 2025.

5.2 She believes that the Tenant is presently in hospital. The Tenant telephoned Ms Kelly three weeks ago from hospital to enquire about keys but Ms Kelly did not mention the rent arrears or eviction application to her.

5.3 The Tenant is in her late 20's or early 30's. She lives alone in the Property.

5.4 Last year a family member asked the Letting Agent to carry out a welfare check on the Tenant.

5.5 Ms Kelly attended the Property yesterday with a Tribunal member in connection with the right of entry application but as the Tenant was not there access was not granted.

5.6 She believes that the Tenant had been in receipt of benefits.

5.7 The Applicant is a retired lady on her own and she depends on the rent. The situation with the Tenant has been very stressful for her.

5.8 The Applicant does not own any other rented properties. There is no mortgage over this Property.

## **5.9 Outcome of the Second CMD.**

The Tribunal does not have authority to correspond with the Tenant by email. The Tribunal had notified the Tenant of the second Case Management Discussion by letter

dated 27<sup>th</sup> August 2025, addressed to her at the Property. The Tenant will not have received that letter as she was in hospital at the time and has been in hospital since. The Tribunal were not satisfied that the requirements of Tribunal Rule 29 had been complied with and adjourned the CMD to allow the Applicant to either obtain details of the Tenant's address and provide them to the Tribunal, make an application to the Tribunal for service by advertisement or provide a letter of authority by the Tenant authorising the Tribunal to correspond with her by email.

The Tribunal determined that the application should proceed to a continued CMD.

## **6. Postponement Request.**

Heather Cunningham, the Respondent's Mental Health Officer sent the Tribunal an email at 14.32 pm on 12<sup>th</sup> February 2026 advising that the Respondent was unable to attend the CMD as she was ill in hospital and she is too unwell. She asked for a postponement of the CMD to allow the Respondent to attend.

## **7. The Third CMD.**

7.1 This case called for a conference call CMD at 10.00 on 13<sup>th</sup> February 2026.

Jack Rennie, Solicitor, the Applicant's Representative, attended the CMD.

The Respondent did not attend and was not represented.

The Tribunal clerk phoned Claire Haining, the Respondent's representative from Money Matters Advice Service who advised that she was not representing the Respondent at the CMD but she had been helping the Respondent with her benefits applications.

Jack Rennie explained that the current arrears amount to £9410.65. He had received correspondence from the Letting Agent yesterday with details of Universal Credit payments that will be made direct to the Landlord. However, it is not clear from this correspondence if the rent arrears will be settled by Universal Credit. He advised that he agrees to the CMD being postponed to allow time for the Universal Credit payments to be made to the Landlord.

## **7.2 Outcome of the Third CMD.**

The Tribunal determined that the application should proceed to a continued CMD.

## **8. The Fourth CMD.**

8.1 This case called for a conference call CMD at 10.00 on 13<sup>th</sup> May 2026.

8.2 Jack Rennie, Solicitor, the Applicant's Representative, attended the CMD.

The Respondent did not attend and was not represented.

The Tribunal had instructed sheriff officers to serve notification of the CMD on the Respondent who was in hospital but service had been unsuccessful.

Jack Rennie explained that the current arrears amount to £11,135.65. He had received no recent correspondence from the Local Authority suggesting that payment of the rent arrears was imminent. He accepted that the Tribunal were unable to proceed with the CMD as the Tenant had not been notified. The Tenant had sent him an email dated 28<sup>th</sup> April 2026 asking when the Notice to Leave expired. He replied to that email but as the CMD had not been fixed at that point he did not advise her of the CMD date.

### **8.3 Outcome of the Fourth CMD.**

The Tribunal determined that the application should proceed to a continued CMD to be scheduled within three weeks.

## **9. Written Representations from the Respondent.**

The Respondent sent the Applicant's Representative an email dated 21<sup>st</sup> May 2025, which had been copied to the Tribunal, which was in the following terms:

*'Hi Jack*

*• Your confirmation that your tenancy at 25 Christchurch Place, East Kilbride, G75 8RA has come to an end. YES*

*• Your confirmation of the date on which you vacated the property. 6th MAY*

*• Your confirmation of whether South Lanarkshire Council has been notified that you have vacated the property. YES'*

## **10. The Fifth CMD**

10.1 This case called for a conference call CMD at 10.00 on 29<sup>th</sup> May 2026.

10.2 Jack Rennie, Solicitor, the Applicant's Representative, attended the CMD.

The Respondent did not attend and was not represented.

The Respondent had been sent a letter by the Tribunal administration notifying her of the CMD but that letter had been returned. The Tribunal administration had sent a letter to the Respondent's Representative notifying them of the CMD. The Appellant's Representative had sent an email to the Respondent dated 21<sup>st</sup> May 2026 notifying

her of the CMD. The Respondent had sent an email response to the Appellant's Representative dated 21<sup>st</sup> May 2026 referred to at paragraph 9 of this decision. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

10.3 The Applicant's Representative referred the Tribunal to the email from the Respondent dated 21<sup>st</sup> May 2026 which stated that she had vacated the Property on 6<sup>th</sup> May 2026. He confirmed that the Letting Agent had visited the Property on Tuesday and determined that no one was living there. In addition, the Local Authority have sent the Applicant an invoice for the council tax for the Property which supports the Respondents statement that she has advised the Local Authority that she has vacated the Property. There have been no recent rent payments made. The rent arrears exceed £11,135.65. He has received no confirmation that the rent arrears will be paid by the Respondent's universal credit payments.

## **11. Decision**

### **11.1. Requirements of Section 109 of the Procedure Rules.**

**11.1.1** The Tribunal confirmed that the application correctly detailed the requirements of section 109(a) of the Procedure Rules namely:-

- (i) the name, address and registration number of the Landlord.
- (ii) the name and address of the Landlord's representative.
- (iii) the name and address of the Tenant.
- (iv) the ground of eviction. The ground stated in the application is that the tenant is in rent arrears over three consecutive months.

The Tribunal accepted that this is Ground 12 of Schedule 3 of the 2016 Act.

**11.1.2** The Tribunal confirmed that the application complied with the requirements of Section 109(b) of the Procedure Rules:

- (i) evidence showing that the eviction ground or grounds had been met.

The required rent statement had been provided showing rent arrears over three consecutive months.

- (ii) a copy of the notice to leave given to the Tenant as required by section 52(3) of the 2016 Act.

The Tribunal confirmed that the Notice to Leave was in correct form as set out in Schedule 5 of the Private Residential Tenancies Notices and Forms (Scotland) Regulations 2017.

The Notice to Leave was dated 2<sup>nd</sup> October 2024 and advised the Tenant that the Applicant intends to apply to the Tribunal for an eviction order in respect of the property on the basis of Ground 12 (The Tenant is in rent arrears over three consecutive months). It also advised that an application would not be submitted to the Tribunal for an eviction order before 3<sup>rd</sup> November 2024.

The Tenancy commenced on 6<sup>th</sup> January 2022 . As at (the date of the Notice to Leave) the Tenant had resided in the property for more than six months.

The application for eviction was based on Ground 12 of Schedule 1 of the 2016 Act and therefore twenty eight days notice was required.

The Landlord served the Notice to Leave on the Tenant on by email dated 2<sup>nd</sup> October 2024. Paragraph 4 of the tenancy agreement authorises services of Notices by email. The Notice to Leave correctly gave the Tenant a minimum of twenty eight days notice.

(iii) a copy of the notice given to the local authority as required by Section 56(1) of the 2016 Act.

The Tribunal confirmed that a copy of the required notice had been provided.

**11.1.3** The Tribunal confirmed that the application form had been correctly signed and dated by the Landlords' representatives as required by Section 109(c) of the Procedure Rules.

**11.2The Tribunal made the following findings in fact:**

11.2.1 The Respondent had been Tenant of the Property in terms of the lease between the parties.

11.2.2 The start date of the Tenancy detailed in the lease was 6<sup>th</sup> January 2022.

11.2.3 Applicant is Landlord of the Property. The Tribunal had a copy of the Applicants' title deeds being Land Certificate LAN16285 Section B of the Land Certificate confirmed that the Applicant is heritable proprietor of the Property.

11.2.4 The lease was a Private Residential Tenancy in terms of the Private Housing Tenancies (Scotland) Act 2016 ('The 2016 Act').

11.2.5 The rent detailed in the tenancy agreement was £575 per calendar month, payable in advance.

11.2.6 The Notice to Leave was dated 2<sup>nd</sup> October 2024 and it was served on the Respondent by email on 2<sup>nd</sup> October 2024.

11.2.7 The Notice to Leave stated that the Respondents were in rent arrears over three consecutive months, which is Ground 12 of Schedule 3 of the Private Housing (Tenancies) Scotland Act 2016.

11.2.8 The rent account has been in arrears since June 2024.

11.2.9 The current rent arrears is in excess of £ 11,135.65

11.2.10 The rent arrears were not due to the delay or failure in the payment of a benefit.

11.2.11 The Tenant had vacated the Property on 6<sup>th</sup> May 2026.

**11.3 In relation to the requirements of Ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal found as follows:**

11.3.1. The Tribunal determined that the Respondent has been in arrears of rent for three or more months at the date of the Notice to Leave, the date of the Application to the Tribunal and at today's date.

11.3.2 The Tribunal found that the rent arrears were not due to a delay or failure in payment of a relevant benefit.

11.3.4 The Tribunal found that it was reasonable for the eviction order to be granted as the Respondent had vacated the Property and she had acknowledged that the tenancy had ended in her email dated 21<sup>st</sup> May 2026.

11.3.5 The Tribunal found that the eviction ground twelve of Schedule 3 of the 2016 Act was met.

**11.4 The Tribunal granted the eviction.**

## **12. 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.**

Jacqui Taylor

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**Legal Member**

**29<sup>th</sup> May 2026**