Housing and Property Chamber
First-tier Tribunal for Scotland

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

Chamber Ref: FTS/HPC/EV/25/2793

Re: Property at Flat D, 23 Scotland Street, Stornoway, Isle of Lewis, HS1 2JR (“the Property”)

Parties:

The Energy Advisory Service (SCIO), 13-15 Francis Street, Stornoway, Isle of Lewis, HS1 2NB (“the Applicant”)

Natalie Allan, Flat D, 23 Scotland Street, Stornoway, Isle of Lewis, HS1 2JR (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. This is an application by the Applicant for an eviction order in regard to a Private Residential Tenancy (“PRT”) in terms of Rule 109 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”). The Applicant relied on a PRT by the Applicant to the Respondent commencing on 11 March 2022 (but it was accepted that the Respondent had been resident at the Property since around 2010).

2. The application was lodged with the Tribunal on 27 June 2025. The application relied upon a Notice to Leave dated 7 March 2025 in terms of section 50 of the *Private Housing (Tenancies) (Scotland) Act 2016*, intimated upon the Respondent by recorded delivery on that date. The Notice relied upon Ground 12 of Schedule 3 Part 1 of the 2016 Act. The Notice did not refer to the specific arrears due at that time, but incorporated other documents, such as an email

with a rent statement of 7 March 2025. This rent statement was lodged in the application and detailed arrears of £3,033.52 to that date. The application papers further contained various rent statements, the most recent being dated 4 April 2025 and providing an arrears figure of £2,720.23 as of that date.

3. In advance of the case management discussion ("CMD"), the Respondent lodged:
   a. Various documents said to vouch her medical conditions related to her heart.
   b. Submissions explaining the background to the arrears and her view that the arrears could now be paid by her.

   Both matters are referred to further below, having been discussed at length at the CMD and then the subject of evidence and submissions at the Hearing.

Procedural history

4. Reference is made to the terms of the Case Management Discussion note and Notice of Direction for further detail where relevant, though the following is a comprehensive review of the parts of the discussion at the CMD relevant for considering the evidence and submissions at the Hearing.

5. The matter called for an initial CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 7 January 2026 at 14:00. We were addressed by the Applicant's representative, Donna Smith, CEO, Tighean Innse Gall ("TIG"). The Applicant's representative confirmed that the Applicant was the "charitable arm" of TIG but that there was a formal letting agent agreement between them. The Respondent represented herself.

6. The Respondent stated that she had lived at the Property for around 16 years and, prior to the Applicant purchasing the Property in 2022 and significantly increasing the rent, she had never been in arrears. She said that the rent under her previous tenancy was £380/month and had been fully covered by Housing Benefit. We noted that the Tenancy Agreement of 11 March 2022 provided for a rent of £548.52/m payable on the 11th of the month (so the Applicant had sought a 44% increase in the passing rent). According to the rent statements, the rent had now increased to £593.36/m.

7. No dispute was made as to the validity of the Tenancy and the current rent, nor the validity of the Notice to Leave (its form and service). The Respondent however disputed that it was appropriate to evict her given the history of the arrears and her proposals to pay, thus being a defence limited to reasonableness.

8. During the CMD the Applicant's agent provided details of the arrears to 27 November 2025 being £3,282.55, a figure that the Respondent accepted for the purposes of the CMD (though we had to proceed on the basis that neither party was able to provide submissions as to the exact arrears as at the date of the CMD of 7 January 2026).

9. The Respondent provided a number of explanations as to why the rent arrears developed:
   a. The first was related to her core Housing Benefit. She said that she had assumed that her Housing Benefit would automatically increase following the new Tenancy of 11 March 2022 (and the significant increase in rent) but she later realised that this was not the case and took steps to seek an increase in the benefit payments. We noted the following at the CMD:
      i. From the rent statements we could see a payment on 1 July 2022 referred to as "Paid CNES HOUSING BENEF 10036 (10mar22 to 4 july 22)" in the amount of £1,620.85, which we took to be an initial back-dated payment. This was followed by payments of £391.24 per 4 weeks starting on 29 July 2022, which later increased.
      ii. A transfer to Universal Credit payments in 2025, with the current UC payment for housing being £475, thus meaning a shortfall between the rent and the UC payment. (We should note that at the CMD, we – and the parties – had proceeded on the basis that UC was paid 4-weekly. At the Hearing, it was accepted that it was paid monthly, and was being received by the Applicant around the 27th of each month.)
   b. There was an additional period, starting around April 2025, when the Respondent said her benefits stopped, as part of a transfer to UC. She said she needed to reapply for most of her benefits, with a period of interruption. (We further note that, at the CMD, the parties did not appear to dispute there had been an interruption but from the rent statements lodged prior to the Hearing, we saw regular four-weekly Housing Benefit payments up to 6 June 2025 and then regular monthly UC payments from 27 June 2025, with no apparent interruption.)
   c. The Respondent had sought, and by the date of the CMD had received, two Discretionary Housing payments and was awaiting a third, though had been advised that this was stuck in a backlog of claims.
   d. Around 2023, the Respondent had suffered an accident at a property to which she had been decanted to allow the Applicant to undertake refurbishment works at the Property. She was keen to stress her view that the Applicant and its agent were thus responsible for the accident. The following from her written submissions of 30 December 2025 summarises:

      > *TIG put me in a different property at esplanade court whilst 23d was being refurbished. On day 2 of being there my foot got caught on the faulty metal bar at the top of the stairs and i fell down them to which led me to two foot operations and £9000 in taxies as i couldnt walk for one year.* (all *sic*)

      In short, the Respondent's position was that she needed to spend money on essential travel when injured, rather than ensure the full rent was being paid and arrears brought down.

10. The Respondent's submission at the CMD was that she was now able to walk normally again, after a recent operation, and was thus no longer reliant on taxis. She was satisfied that her benefits were now at an appropriate level and was finally able to commit to a monthly payment to cover the shortfall and arrears and maintain it. The Respondent's principal reasonable defence was that the arrears arose through no fault of her own, due to a confluence of issues regarding her confusion about the operation of Housing Benefit, and a period of

delay in processing benefits, combined with the excessive financial strain of her injury. Over and above, she expected the arrears soon to be further reduced by a lump sum payment of several hundred pounds from the final Discretionary Housing payment.

11. At the CMD, we did note that the rent statements lodged by the Applicant did show variations in the benefits received, with arrears developing quickly when no benefits were being received, and further arrears developing slowly when the benefits were being received at less than the passing rent.

12. To place this within context, the application papers contained evidence of the Applicant complying with the pre-action protocols and both providing the Respondent with information on the arrears and sources of advice, and seeking to engage with her to obtain a proposal for payment. Further, there was evidence of abortive agreements on payment of arrears (such as an agreement in November 2022, and a further unsigned agreement of £170 per month for 38 months, starting on 11 January 2024). The Respondent accepted that she had agreed repayment plans for the arrears, but then failed to make the repayments. Further, the rent statements showed very limited one-off payments from the Respondent against arrears as at 7 January 2026: we noted £140 on 27 March 2023 and £250 on 12 September 2024.

13. Other issues of reasonableness were discussed at the CMD:
    a. The Respondent made reference to medical treatment (and medication) for various heart conditions. She was not able to work. Some of the documentation provided by the Respondent was in too low a resolution to read, but we noted from her oral submissions that the Respondent stated that, due to her poor health, it would place a significant strain on her if she was to be evicted. She relied upon this as part of her defence on reasonableness.
    b. In regard to the Respondent's care obligations, she said that she received Carer's Allowance as carer for her mother. The Respondent provided information in her written submissions about her mother's health and explained in oral submissions that her mother had been living with her for some months, and she expected this to continue until around May 2026. She explained that her mother lived in a form of sheltered housing but that material adaptations and renovations to her mother's home were required.
    c. In regard to the Property, the Respondent confirmed that it was not specially adapted for her, but submitted that it was very suitable for her needs, as it was a small two-bedroom flat on the first floor. Therefore, it was easily accessed and maintained by her despite her heart conditions.

14. The Applicant's position was that matters had progressed too far for too long and it wished to terminate the Tenancy. The Applicant's representative said at the CMD that if a proposal to reduce the arrears within a reasonable time was made, such a proposal would be refused due to the Respondent's poor payment and broken promises, and because she thought the required payment (£150/m was discussed as a hypothetical monthly payment at the CMD) would be difficult for the Respondent to maintain. In regard to questions of reasonableness, the Applicant further confirmed:

a. No other issues regarding the Respondent's conduct or performance under the Tenancy were be relied upon.
b. The Applicant reserved the right to lead evidence from a board member as to its reasons for seeking eviction, and the negative effect on the Applicant of the current Tenancy continuing.

15. After submissions on further procedure, we set a Hearing in person and issued a Notice of Direction covering various timetabling matters, to provide the Respondent with time to lodge vouching on her medical and financial affairs and any payment offers, and for the Applicant to provide updated arrears information. We drew the Respondent's attention to the following specific points as benefitting from clear vouching by the time of the Hearing:
    a. Relodging of the medical documentation previously provided at a higher resolution.
    b. Lodging any additional medical documentation supporting her evidence on her health conditions as at that time.
    c. Lodging any additional medical documentation supporting her evidence on her mother's health conditions and care needs as at that time.
    d. Lodging any additional medical documentation supporting her evidence regarding her reliance on taxis for the two years preceding the CMD.
    e. A note of her income and expenditure, and her free income available to make payments to the Applicant.
    f. Any documentation vouching payments made to the Applicant (either by the Respondent or from benefits) since the date of the CMD.
    g. Any documentation vouching any offers of settlement made to the Applicant since the date of the CMD, and the Applicant's response on those offers.
    h. Any documentation vouching the current status of any pending benefit applications, or applications for discretionary payments.
    i. Any documentation vouching the conclusion of any benefit applications, or applications for discretionary payments, concluded or refused since the date of the CMD.

16. In response to the Notice of Direction:
    a. The Applicant lodged an updated statement of arrears, and shortly before the Hearing, a bundle with a further updated statement and correspondence with the Respondent sending her the statements. The statements referred to arrears as of 11 June 2026 of £3,029.12. The Applicant further lodged a letter from the local authority dated 15 January 2026 regarding an award of Discretionary Housing Payment to the Respondent for the period 4 June 2025 to 6 April 2026 at £27.61/week.
    b. The Respondent lodged voluminous emails, many with the Applicant repeating her concerns as to how she had fallen into arrears, referring to her and her mother's continuing health issues, and referring to DHP received by the Applicant or payments made by the Respondent (such as references to £100 having been paid in January 2026). Further letters from the NHS were lodged, but it was not clear if these were new documents or better quality versions of those already lodged. None of the NHS letters gave a clear indication of the medical treatment being provided or the nature of the conditions.

The Hearing

17. The matter called for a Hearing, in person at Stornoway Sheriff Court, at 10:00 on 25 June 2026. We were again addressed by the Applicant's representative, Donna Smith, CEO, Tighean Innse Gall and by the Respondent personally.

18. A discussion of preliminary matters resulted in confirmation by the Respondent that she agreed the arrears as at the date of the Hearing were £3,029.12.

19. Evidence was heard from Ms Smith, from Ian McCulloch, a director of both the Applicant and TIG, and from the Respondent.

Donna Smith

20. Ms Smith was the CEO of TIG and was 49 at the date of the Hearing. Ms Smith (and later Mr McCulloch) principally referred to the Applicant as TEAS, being an acronym of the translation of "Energy Advisory Service" in Gaelic, and itself meaning "heat" in Gaelic. Ms Smith described the Applicant's "social mission" as a charity to improve energy efficiency.

21. After briefly discussing the terms of the lease and current rent (which was not a matter in dispute, per the CMD), she took us through the recent part of the rent statement and the payments received since the CMD being:
    a. Payments from the Respondent of £100 on 7 January, £50 on 16 March, £100 on 9 April and £100 on 11 May 2026.
    b. £475 per month coming in from Universal Credit. (Initially Ms Smith said this was coming in on a four-weekly basis but later accepted it was monthly, further to our query that her rent statement appeared to show monthly payments around the 27th of the month, and that UC was said to be a monthly payment on the relevant government online guidance.)
    c. Discretionary Housing Payments further to the award set out in the letter of 15 January 2026 regarding an award to the Respondent for the period 4 June 2025 to 6 April 2026 at £27.61/week. The following had been received:
        i. £930.85 on 23 January 2026, which she took to be the backdated payment from 4 July 2025 to that date.
        ii. £55.22 on 6 February 2026, which she took to be a payment for two weeks, to make up to end of a payment cycle.
        iii. £110.44 on 6 March 2026, being a payment for the next four-week period.
        iv. £110.44 on 6 May 2026, which she took to be the payment to conclusion on 6 April 2006, paid late.

    In the circumstances, she believed that all DHP awarded to the Respondent had now been paid to the Applicant in full.

22. Ms Smith said that the Respondent had failed to address the arrears, despite attempts by the Applicant to negotiate payment plans. Any payment plans made had not been adhered to, and the Applicant had thus sought eviction. She summarised the history of discussions as follows:

a. A repayment plan was signed in November 2022 but never adhered to. The payment agreed covered the shortfall in rent (between the UC and the rent) plus £10/m on arrears. The monthly payment required from the Respondent had been £170/m. Only three payments were made under it.
b. In September 2024, having exhausted the internal arrears procedure, the Applicant issued a Notice to Leave. There was then a meeting with the Respondent and it was agreed to hold matters until applications for UC and DHP were finalised.
c. The Applicant held matters for six months but no proposal on payment was made, and a second Notice to Leave (which was the Notice relied upon in this application) was issued on 7 March 2025. Notwithstanding the expiry of that Notice, the Applicant waited a further three months – while issuing the Respondent with regular monthly statements and reminders – before raising the applications.
d. No specific negotiations on repayment had occurred since the raising of the application.

23. When asked by us about the Respondent's payments of £100, and whether £100/m would be considered as an acceptable offer if it had been formally made, Ms Smith said that given the experience with the tenant, and the engagement had with her over the period of the Tenancy (where she has failed to follow payment arrangements) she did not think that any offer to pay £100/month would have been adhered to even if it had been made.

24. Ms Smith accepted that when DHP was paying at £27.61/week and UC was at £475/m the rent was being covered (with a small surplus over and above), and that a further £100/m would have cleared the arrears in around 30 months. She was not, however, aware of any current application for further DHP, and she was conscious that there may be further annual increases in rent in the future which could result in increased shortfalls in the rent paid.

25. In regard to the level of rent charged for the Property, Ms Smith said that it was a two-bedroom property and the rent charged was set at the local level of benefit allowance for a two-bedroom property. She understood that the Respondent, as she lived alone, was receiving UC at the level of a one-bedroom property. She was asked if the DHP payment approved was pitched as the shortfall in rent. Ms Smith that said that this was her first experience with DHP applications but she did believe that the DHP level approved had been to cover the gap between the rent and the UC awarded.

26. On cross-examination, Ms Smith accepted that the Respondent had informed the Applicant over time regarding matters such as: her health, her reliance on taxis after the accident, changeover in her benefits, and backlogs in processing of benefits. Ms Smith said that she had been the one to encourage the Respondent to lodge an application for DHP. In regard to processing backlogs, she believed that there was a pattern of payments that suggested the Respondent was not able to pay the full rent and clear the arrears. In regard to the taxi costs, she said that the Applicant's policy sub-committee considered a request for compensation but that this was refused.

27. In response to final questions from the Tribunal, Ms Smith accepted the following arithmetic regarding recent payments:
    a. At the point when the DHP was being paid, the Respondent received £5,700/annum in Universal Credit (12 x £475) and the equivalent of £1,435.72 in Discretionary Housing Payments (52 x £27.61) being £7,135.72 against a passing rent of £7,120.32/annum.
    b. Without DHP, the Respondent is receiving only £5,700/annum, leaving a shortfall in rent of £1,420.32 (which would not be covered even if she paid £100/m (£1,200)).

Ian McCulloch

28. Mr McCulloch was a retired surveyor who was 65 at the date of the Hearing. He said that he had worked in the area for 42 years. He was interested in social housing and his directorship of the Applicant, and his chairing of TIG, were voluntary roles.

29. He gave evidence on the impact of rent arrears on the Applicant as a charity and spoke to the Annual Accounts, to 31 March 2025, of the Applicant. (These had not been lodged but we allowed them to be circulated and spoken to under reservation. At the conclusion of Mr McCulloch's evidence, the Respondent confirmed she did not oppose the late lodging, though submitted that the evidence on the accounts was "irrelevant".)

30. Mr McCulloch explained that the block at Scotland Street (comprising the Property and three other flats, numbered A, B, C and D, 23 Scotland Street) had been purchased by the Applicant as an opportunity to offer "low cost, low energy housing". The Applicant had no other properties that it rented out, and its principal work was providing advice and grants related to energy efficiency, as the issue of fuel poverty was significant in the Western Isles.

31. The Applicant's income was principally from grants. In regard to the purchase and redevelopment of Scotland Street, it received a grant of around £290,000 from the Scottish Government and around £30,000 from the local authority. The remaining funds came from a £280,000 bank loan. He then spoke to two sections from the accounts: rental income for the year to 31 March 2025 of £24,122 and bank interest for the same period of £21,842. He described that the "model for social rented accommodation has two main points of sensitivity": rate of interest on borrowing, and rental income, and that rent needs to cover interest payments. He said that where a social housing body was unable to achieve a sufficient rental income to cover interest payments, the project starts to fail. He believed that the rental income for the year to 31 March 2025 was supposed to be around £27,000, and the figure of £24,122 was reduced due to the Respondent's under-payment of rent.

32. Mr McCulloch said that the Applicant did not come to the decision to seek eviction lightly and it was the last resort due to the arrears, their increase over time, and their duration. He said that the Applicant had used best endeavours to settle the matter and have the Respondent pay the shortfall in rent.

33. Mr McCulloch believed that the rent for all four flats was pitched at the maximum Universal Credit payment allowed for a property of its size and he believed this was slightly lower than the market rent for such properties.

34. Mr McCulloch accepted that the Respondent had previously been paying £380/m for the Property but said that, after the Applicant purchased, TIG had “assessed this as too low”, and that the Applicant had sought for the Respondent to sign a new lease at a higher rent. He said all the tenants of 23 Scotland Street had been asked to sign new leases. He did not think he had been on the Applicant’s board in March 2022 when the Respondent signed the Tenancy Agreement, but he had been on the TIG board at the time.

35. We asked Mr McCulloch to comment on the Respondent’s rental payments for the year ending 31 March 2026, when UC and DHP were sufficient to cover the passing rent. He conceded this but said that DHP could not be relied upon in the long term.

36. We asked Mr McCulloch if there was any section of the accounts he sought to rely upon that may show the effect of arrears of around £3,000 on the Applicant. He said that he only sought to rely on the accounts in regard to the two figures already relied upon, and he did not know the Applicant’s ability to sustain a running £3,000 debt.

37. We further asked Mr McCulloch if he thought that the refurbishment would mean the tenants would enjoy lower running costs. He said that he did, but he did not believe that the increase in rent was balanced against any saving in running costs. He did think that the refurbishment meant the flats were more comfortable than before.

38. On cross-examination, the Respondent asked Mr McCulloch if he agreed that the rent was increased because the refurbishment of Scotland Street cost more than was expected. He did not agree with this. Further, when asked about the Respondent’s payment history prior to the Applicant’s purchase, he said he did not know of it.

The Respondent

39. The Respondent’s evidence materially repeated the position set out by her at the CMD and, for the sake of brevity, we do not repeat in this Decision those points already set out in our review of the Respondent’s defence from the CMD except where they seem particularly relevant as matters of emphasis. Otherwise, the following relates those aspects of the Respondent’s evidence which clarified or expanded on the information received at the CMD, and in particular the evidence that addressed the period since the CMD.

40. The Respondent was 45 at the date of the Hearing. She spoke clearly about the confluence of events that resulted in arrears arising at different periods: that her Housing Benefit was not initially updated when she had a new landlord; then it was initially paid at a rate that covered only her rent under her prior

landlord (for whom, she repeated, she had never been in arrears); that shortly after she sought to have the Housing Benefit updated, she had the accident at the property on Esplanade Court, to which she had been decanted by the Applicant, and this resulted in a long period where she was reliant on taxis and could not afford to pay off the arrears; that there had been a backlog in processing her DHP applications, though three have all eventually been received with back-payments; and the health issues of herself and of her mother, for whom she is a carer. She said that she informed TIG throughout of her issues. She provided evidence on each of these in greater detail.

41. In respect of the initial period of rent arrears, she said that she had first applied for Housing Benefit around 12 years ago. When the Applicant took over as landlord, around 8 years ago, she said that she naively believed that the landlord would update the local authority as to the change of rent. In her evidence, she acknowledged this was her error but it was due to her inexperience with the process, and once she became aware – after a couple of months – that rent was not being paid from her benefits and arrears were accruing, she took the necessary steps. (We would note from the CMD, however, that the rent statements showed that Housing Benefit was awarded at a range of sums all lower than the rent under the Applicant's new lease of March 2022, and the subsequent increases of rent.)

42. The Respondent accepted that she had entered into a formal repayment arrangement with the Applicant after that but only made a few payments, as she explained this then coincided with her accident. She explained that at the top of the stairs in the Esplanade Court a grip rail on a carpet had been screwed into concrete rather than a wooden footing. This meant the rail did not sit flush, and two days into being at the property she tripped down the stairs, when her foot caught in the grip rail. She was then in an orthopaedic boot for over a year and, after, was left in pain when walking, which was only resolved by a final operation. She described this as occurring in March 2026. (We would note, however, that at the CMD we recorded that the Respondent seemed satisfied that she was already fully recovered. The specific dates of each operation for her foot injury was not taken from the Respondent at either the CMD or Hearing. In regard to seeking to clarify other specific dates during the Hearing, the Respondent explained that due to the stress and health issues at the time – discussed further below –her mental recall was affected, and she was having trouble sleeping.)

43. In regard to the reliance on taxis, the Respondent said that she spent around £9,000. Her mother assisted her with these costs, using money from her savings. The reason for needing the taxis was that, throughout, the Respondent continued to care for her mother, and in particularly did her shopping. She would regularly need to call a taxi, have the taxi wait outside the shop, and then take the taxi home or to her mother's.

44. The Respondent did seek to reclaim the costs from the Applicant, compiling vouching for the taxis and presenting that to the Applicant who (as said by Ms Smith) rejected the claim. She also took legal advice but needed to discontinue

that as the lawyer said she would need to pay for a surveyor to do a report on the condition of Esplanade Court and she could not afford that.

45. As the Respondent recovered from the mobility issues, and ceased to be reliant on taxis, her next set of issues related to benefits. She was migrated onto Universal Credit and described a period of three months interruption in her benefits, during which payments were not made. (As we note above, we do not see such an interruption in the switch from Housing Benefit to Universal Credit payments being received by the Applicant, but accept that that the Respondent was speaking globally about her benefits position.)

46. Further, she described long backlogs in obtaining Discretionary Housing Payment awards, meaning further shortfalls in rent payments until the backdated payments came in from these. We asked the Respondent to comment on the letter of 15 January 2026 from the local authority which referred to a DHP award covering the period 4 June 2025 to 6 April 2026, and implied that no award after that period had been given. We identified that the rent statement lodged by the Applicant showed no DHP receipts since 1 May 2026. She said that she had called the relevant office four weeks ago to request a new form but it had not arrived yet. She said that the form needed to be completed in hard copy, and be accompanied by an updated rent statement and a financial statement. She always handed these in personally. She said she had been told previously that she does qualify for DHP support given her circumstances, and was positive that a further application would be granted and backdated. When asked by us if she had made a visit to the relevant office to collect the form, she said that she could call them to see if that was possible.

47. In regard to monthly payments, further to our questions, she provided information on her annual income from Universal Credit (excluding the housing element paid to the Applicant) and Carer's Allowance. She said her Carer's Allowance was recently increased and, overall, she did not "need much to live off". She did not have a car. She gave details of her monthly energy costs but could not recall her Council Tax costs. She was certain she could afford £100/m or slightly more in order to clear the arrears. (We understood her evidence on this to be on the basis that the Respondent appeared to rely on repeated DHP awards covering the shortfall between rent and her UC payment, and she needed only to budget for a figure to address the arrears.) When asked why she had not paid a regular £100/m since January, her evidence was vague in regard to the period for February and March. She said she that in February she had had Covid as well being in hospital for a period, and she must have missed that. She did not explain why only £50 was paid in March. We pressed her as to why no payment had yet been made in June, despite her knowing that a hearing on her potential eviction was upcoming. She said that she would make the payment by the end of the month, and referred to the significant stress of her mother's recent ill-health had meant she lacked time and focus to make the payment. We asked how she made the payments and she explained it was from online banking, but said that she did not always have signal to use the app (for instance if at hospital visiting her mother). We asked her whether the app allowed her to set up a standing order and she said that

she did not know if it did. She confirmed her bank still had a local branch but she had not gone into the branch to seek to set up a standing order.

48. In regard to her health issues, the Respondent described at length a collection of medical issues. We do not list the specific details of all of them, given this is a public document. Not all of those described in the evidence appeared vouched by the medical documentation lodged (which was generally restricted to letters from the NHS regarding various appointments). She said that she suffered from heart conditions, including unstable angina. On this, she said that it was suspected late last year, but only confirmed (and the treatment finalised) since the CMD, being one of the matters that she said had taken her attention since the CMD. She also suffers from an autoimmune condition and a gynaecological condition. She has low immunity, and significant pain for which she takes pain medication. Since the CMD, the Respondent had visited hospital six times, with five related principally to the angina and one principally related to an infection. The hospital had suggested that she be kept in on three occasions, but she discharged herself each time so as to be able to care for her mother.

49. She said that when she first moved with her mother to Stornoway around 17 years ago, the Respondent did work but was in receipt of tax credits. She then gave up work to concentrate on her mother's care around 12 years ago, going onto Housing Benefit at that time. She was a carer for her mother, including shopping for her, dressing her, and bathing her, though her mother was currently in hospital (and had been for some weeks). Her mother was 80, and has been in poor health for some time, but had recently been diagnosed with a further condition which placed her at risk of her organs shutting down if not properly treated. This was what caused her mother's recent hospitalisation. Though refurbishment works were taking place at her mother's home to make it more suitable for her care, the Respondent thought it likely that her mother would be discharged from hospital with a home care package but eventually moved to a one-bedroom assisted living property. The Respondent did not believe her Carer's Allowance would alter due to changes in her mother's care.

50. Between the various symptoms of her medical issues, and the stress of dealing with her mother's current health issues, the Respondent said she did not "have the strength to pack everything up" and move. (Later in her submissions, she said it would not be "physically possible" for her do this at this time.) She said that she had not looked into alternative accommodation as "to completely uproot me" at this time would be "detrimental" to her health. She also said that she had been "completely consumed" by matters of her health and her mother's health over the last months and not focused on other issues.

51. She spoke passionately about the Property being her home, and how she had paid for the paint used by the Applicant to decorate it after the refurbishment, and she said that she had paid for the painting of the doors and skirting as such work had been excluded from the Applicant's refurbishment works. She said that she did not have alternative accommodation or means of support. Her mother was a pensioner, though had helped her with the taxi costs using her own savings. Her sister lived in America where her work was freelance but she

had high medical costs due to her own medical conditions and the nature of US private healthcare.

52. Her mother did have a three-room property, but two rooms were full of boxed items from her previous property on mainland Scotland. The Respondent's sister lived in America and stayed with the Respondent when returning to visit their mother. Indeed, for brief stays, the Respondent explained that all three of them would live together at the Property. (Apart from the convenience of a second room for these visits, the Respondent did not provide any further evidence as to why a two-bedroom property was especially suitable for her.) On cross-examination, she confirmed that she had not spoken to Hebridean Housing Partnership despite the Applicant suggesting that she should.

Submissions

53. The Applicant submitted that there were continuing concerns about the affordability of the Property for the Respondent and that there was no guarantee that further DHP awards would be made, and that it could be relied upon to cover the shortfall in rent after payment of UC. The Applicant had considered eviction only after consideration of all the other options, and it saddened them to be in this position.

54. The Respondent said that did not need much and would sacrifice what she needed to remain in her flat. The general tenor of her submissions were to explain what she <u>now</u> wished to do in order to address the arrears going forward. In submissions, she adopted the position – apparently inspired by our questions to her – that she would immediately attend at her bank and set up a standing order for a regular payment to the Applicant. She said that her failure to address matters fully since the CMD was "not out of laziness" but said had not had the "correct mindset" and that "days come and go". She was now with full mobility, and with a finalised diagnosis and treatment for her own conditions. She was financially stable (though conceded that this had been the position since late 2025.) She said it had been a long road to get to where she was. In regard to being evicted now, she did not believe she could lift boxes due to her angina, and did not think she would be physically or mentally able to cope with a move until her mother was settled. She needed to "build myself" in order to be in a stronger position to address matters (from which we took the implication to be that she was not in that position at this time to cope with an eviction). She acknowledged that she had required to apply for social housing as part of her DHP applications, and was told that there was a three-year waiting list.

55. No motion was made for expenses.

Findings in Fact

56. The Respondent moved into the Property around 2010. Her landlord was a private landlord.

57. The Applicant became landlord on 11 March 2022.

58. On 5 March 2022, the Applicant entered into a tenancy agreement to let the Property as a Private Residential Tenancy to the Respondent with commencement on 11 March 2022 ("the Tenancy").

59. In terms of clause 8 of the Tenancy Agreement, the Respondent required to pay rent of £548.52 a month in advance on the 11th day of each month.

60. The rent was increased to £593.96 from 11 June 2024.

61. As of 7 March 2025, the Respondent was in arrears of rent of £3,033.52 having failed to make full payment rent from the commencement of the Tenancy.

62. On 7 March 2025, the Applicant drafted a Notice to Leave in correct form addressed to the Respondent, providing the Respondent with notice, amongst other matters, that she was in rent arrears.

63. The Notice to Leave provided the Respondent with notice that no application would be raised before the Tribunal prior to 10 April 2025.

64. The Applicant served a copy of the Notice to Leave on the Respondent by recorded delivery post on 7 March 2025.

65. The Applicant raised proceedings on 27 June 2025 for an order for eviction with the Tribunal, under Rule 109, relying on Ground 12 of Schedule 3 Part 1 of the 2016 Act.

66. A section 11 notice in the required terms of the *Homelessness Etc. (Scotland) Act 2003* was served upon Comhairle nan Eilean Siar on 6 June 2025 by the Applicant.

67. The Applicant had provided pre-action correspondence in the appropriate form by letter to the Respondent on 4 July 2022, 5 December 2022, 30 November 2023, 29 May 2024 and 16 July 2024.

68. The Respondent entered into an agreement on repayment of arrears in November 2022 but failed to adhere to the payment arrangements.

69. Since 1 July 2022, the Respondent has been in receipt of Housing Benefit, and thereafter Universal Credit, at a level below the passing rent, and has failed to make regular voluntary payments in regard to the shortfall.

70. The Respondent has received a number of awards from the local authority for Discretionary Housing Payment since 2025 which have acted to address the shortfall in rent payments for the periods of the awards, but these awards did not cover any historic arrears.

71. The Respondent's last award of Discretionary Housing Payment ceased on 6 April 2026 and she has not yet applied for a further award.

72. The Respondent has made limited voluntary payments against the arrears. In 2026, she has paid £100 on 7 January, £50 on 16 March, £100 on 9 April and £100 on 11 May 2026. She has not sought to set up a standing order to make regular payments to the Applicant.

73. The rent has been in arrears to some extent since the commencement of the Tenancy.

74. The sum of arrears for the period to 25 June 2026 is not a consequence of a delay or failure in the payment of a relevant benefit.

75. Arrears of rent as at 25 June 2026 are £3,029.12.

76. The Respondent lives alone and has health issues.

77. The Respondent acts as carer for her elderly mother (who does not live at the Property).

78. The Property is a two-bedroom property. The Respondent's sister occasionally visits from America and stays with the Respondent at the Property.

79. The Respondent has been on the housing waiting list for around a year. She has made no material attempts to be rehoused or investigate alternative accommodation.

Reasons for Decision

80. The application was in terms of Rule 109, being an order for eviction from a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been correctly drafted and served upon the Respondent in respect of the interests of the Applicant.

81. Ground 12 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:

> *(1) ...the tenant has been in rent arrears for three or more consecutive months. …*
>
> *…*
>
> *(3) The First-tier Tribunal may find that the ground named by 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.*

> *(4) 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 Ministers in regulations.*
>
> *…*

82. The arrears information provided in the application clearly showed that Ground 12 was satisfied in regard to the length of arrears and amount outstanding. Ground 12 is satisfied subject to paragraph (3)(b) regarding reasonableness.

83. In regard to reasonableness, paragraph (4)(a) required consideration but the Respondent was candid at the CMD that her benefits were now fully addressed, a point that she repeated at the Hearing. She accepted at the Hearing that she had not yet sought a further DHP award, but this is not a "relevant benefit" under the legislation. She accepted that the initial period of arrears at the commencement of the Tenancy was due to her own failure to seek an update of her Housing Benefit when her landlord and passing rent both changed. In all the circumstances, paragraph (4)(b) is not engaged.

84. Turning to a general consideration of reasonableness, we require, in terms of the Act as currently amended, to consider the reasonableness of the application even in regard to persistent and significant arrears. We were satisfied that the Applicant's reasons for seeking eviction were reasonable given the amount and duration of the arrears. It was clear that the Applicant had sought to engage with the Respondent throughout the period of the arrears, and the Respondent had engaged in return but in a way that failed to address the arrears in an organised fashion. We do accept that the Respondent suffered an accident around 2023 which resulted in an additional financial drain, and that she has significant responsibilities as a carer, both of which will have drawn her attention and focus. Further, though her medical position was not well vouched, we accepted at face value that her conditions have also drawn attention and focus, and sometimes contribute to her lacking the ability to focus. Nonetheless, she has a tenancy and rent requires paid monthly. She has known for some years that she was not receiving full cover from benefits and that she had arrears. In particular, the CMD Note and Notice of Direction gave a clear structure to what was required of her and from her in order to address the arrears and defend the application. Though we accept that she has had other matters requiring attention since the CMD, her arrears and rent required attention as well. She has clearly given some attention to these (with limited payments towards arrears, and a perfunctory attempt to obtain a further DHP application form around a month ago). She has simply not done all she could, and not done anything close to enough. We hold that there is not a material difference in the nature of the competing health and care issues present at the CMD and those between the CMD and the Hearing. The Respondent's continued pressures do not justify her failure to address matters in full. We are satisfied that matters should be considered as they sit at the

commencement of the Hearing on 25 June 2026, and that any promises of future action made at the Hearing do not carry any weight.

85. As matters stand, the Respondent has not instituted a regular payment for arrears to the Applicant, and has not paid anything in six weeks. She has knowingly watched a DHP award come to an end and not applied for a further award. She lives alone in a two-bedroom property which she is aware is not fully covered by her UC payment. She has not actively investigated alternative housing options. She owes around the same amount in arrears as she did at the Notice to Leave and as at the CMD. There is a live question of affordability, which has been masked by the repeated DHP awards, but there is no guarantee that any further award will be granted. As for suitability, apart from the occasional visits by her sister, there is a question as to the suitability of the Property given that it is larger than she needs or appears to be able to afford.

86. In the circumstances, we hold it to be reasonable to evict but we accept that the Respondent's health and caring commitments, and length of stay at the Property, will make removal a significant enterprise for her. To afford her sufficient time to seek rehousing and arrange to move, while also attending to her care commitments, we are thus satisfied to grant an order for eviction at this time, suspended to 4 September 2026.

Decision

87. In all the circumstances, we grant an order against the Respondent for eviction from the Property under section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* further to ground 12 of Schedule 3 of that Act suspended to 4 September 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.

J. Conn

25 June 2026

Legal Member/Chair **Date**