



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/25/4975

Re: Property at 164 Bank Street, Coatbridge, ML5 1ET (“the Property”)

Parties:

Mr Tahir Jamshid, 1 Bishopburn Drive, Coatbridge, ML5 1EF (“the Applicant”)

Mr Frankie Miller, 164 Bank Street, Coatbridge, ML5 1ET (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member) and Sara Hesp (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) refused the application.

Background

1. An application was received from the Applicant’s representative, Amarco Estates Ltd, on 17 November 2025 under rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (‘the 2017 rules’) seeking recovery of the property under Ground 1 (landlord intends to sell) as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form were:
 - (i) Copy private residential tenancy agreement between the Applicant and the Respondent and Ms Sarah-Jane Mackenzie which commenced on 1 July 2020.
 - (ii) Notice to Leave addressed to the Respondent dated 17 June 2025 citing ground 1, and stating the date before which proceedings could not be raised to be 13 September 2025.
 - (iii) Certificate of posting to the property address dated 17 June 2025.

3. Following requests from the tribunal administration, further information was received from the Applicant's representative on 8 and 30 January 2026. This included:
 - a) Written evidence that Ms Mackenzie was no longer living in the property.
 - b) Copy notice under section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to North Lanarkshire Council, together with covering email dated 8 January 2026.
 - c) Sales agreement between the Applicant and Amarco Estates Ltd relating to the property dated 17 June 2025.
 - d) Text messages from the Applicant's representative to the Respondent.
 - e) Royal Mail confirmation for the delivery tracking number given on the certificate of posting regarding an unsuccessful delivery attempt on 23 June 2025.
4. The application was accepted on 10 March 2026.
5. The tribunal administration wrote to the Applicant's representative on 14 March 2026, advising that while the application had been accepted to proceed to a tribunal for a full determination, the legal member had raised the following points:-
 1. *The text messages you have produced do not appear to confirm delivery of the notice to leave. The tribunal will require to consider whether the notice to leave has been properly served in the absence of this information.*
 2. *We note the position regarding the joint tenant. The tribunal will require to consider whether the joint tenancy was properly ended, and the application can therefore proceed against Mr Miller only.*
6. The email of 14 March 2026 also informed the Applicant's representative that they should be prepared to make submissions on these points to the tribunal, and that they may therefore wish to seek advice from a solicitor or advice agency in advance of the case management discussion.
7. Notice of the case management discussion (CMD) scheduled for 25 June 2026, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the tribunal on 27 May 2026. The Respondent was invited to submit written representations by 12 June 2026.
8. No written representations were received from the Respondent prior to the CMD.

The case management discussion

9. A CMD was held by teleconference call on 25 June 2026 to consider the application. The Applicant was represented by Mr Joe Commins of Amarco Estates Ltd. Mr Commins was late in joining the call due to a power cut in the local area. Mr Commins was accompanied by his colleague, Ms Kamal Shahid.
10. Mr Commins said that he had previous experience before the tribunal and was therefore familiar with the process.
11. The Respondent was not present or represented on the call. The tribunal delayed the start of the CMD by 10 minutes, in case the Respondent had been detained. He did not join the teleconference call, however, and no telephone calls, messages or emails had been received from him.
12. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a case management discussion had been duly complied with. The tribunal therefore proceeded with the CMD in the absence of the Respondent.

Preliminary issues

13. The tribunal considered the two preliminary issues which had been notified to the Applicant's representative in the email of 14 March 2026.
14. Firstly, it considered the matter of the joint tenant, Ms Mackenzie, who was named in the tenancy agreement. The tribunal noted that, where a tenant had moved out, it would have expected a new tenancy agreement to be issued in the sole name of the remaining joint tenant. Mr Commins confirmed that this had not been done in this case for various reasons.
15. The tribunal noted that the Applicant's representative had produced an email from Ms Mackenzie dated 6 February 2026. Attached to this was an exchange of text messages between Mr Commins and Ms Mackenzie, wherein Mr Commins had confirmed on 30 January 2023 that Ms Mackenzie would be removed from the tenancy agreement.
16. While not ideal, the tribunal considered that the Applicant had produced sufficient evidence to demonstrate that Ms Mackenzie was no longer living in the property.
17. Secondly, the tribunal noted that as things stood, there was insufficient evidence before it that the notice to leave had been validly served on the Respondent. The tenancy agreement provided for notices to be sent by email, but no such email had

been produced. A certificate of posting had been provided, but there was no evidence that the notice to leave had been delivered to the Respondent. In the Respondent's absence, it was not possible to ask him to confirm whether he had received the notice to leave.

18. Mr Commins asked for a short adjournment to try to locate the relevant paperwork. Following the adjournment, he confirmed that the notice to leave had not been sent to the Respondent by email as required by the tenancy agreement. This was because the Respondent also went by another name and it had been decided, in order to avoid confusion, that the notice should be sent by post. A certificate of posting had already been provided to the tribunal, but the Applicant was unable to produce evidence that the notice had been delivered.
19. Mr Commins said that the Respondent owed over £10,000 in rent arrears to the Applicant, and that the property was in poor condition and was being kept insecurely. The Respondent had made no attempt to communicate with the Applicant or his representative directly.
20. Mr Commins said that the Respondent had, however, been in touch with the citizens' advice bureau (CAB) after receiving the notice to leave. The CAB had then telephoned Amarco Estates Ltd to discuss this. He was unable to produce any written evidence to demonstrate this, such as an email from the CAB or a call log. He asked for the application to be adjourned to another date to allow him time to produce written confirmation from either the CAB or the Respondent himself that he had received the Notice to Leave.

Reasons for decision

21. Having adjourned briefly to consider Mr Commins' request, the tribunal noted that as a professional letting agent, he might be expected to be aware of the requirements relating to service of a notice to leave. Despite having been given advance warning that the tribunal would expect to be addressed on this issue, and having previous experience of the tribunal process, he had not come to the CMD equipped to answer the tribunal's questions about this.
22. The tribunal was not satisfied based on the evidence which had been produced that the notice to leave had been validly served on the Respondent. The tribunal was aware that were it to adjourn the CMD to allow Mr Commins to produce further evidence regarding service of the notice, it would be some months before the adjourned CMD took place. In that event, it was possible that the tribunal dealing with the matter would again decide at that stage that there was insufficient evidence that the notice had been validly served.

23. Bearing in mind the tribunal's overriding objective, the tribunal decided to refuse the application, for the reasons set out above.

24. The tribunal observes that the Applicant may wish to seek legal advice should he wish to make a new eviction application whether on the same or other grounds.

Decision

For the reasons set out above, the tribunal determined that the application should be refused.

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.

Sarah O'Neill

25 June 2026

Legal Member/Chair

Date