

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 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/3085

Re: Property at 15 Kenilworth Court, Holytown, North Lanarkshire, ML1 4NT (“the Property”)

Parties:

Innovation Investments UK Ltd, 46 Aldgate High Street, London, EC3N 1AL (“the Applicant”)

David Paterson, Ms Lisa Paterson, 15 Kenilworth Court, Holytown, North Lanarkshire, ML1 4NT (“the Respondent”)

Tribunal Members:

Elaine Paton (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the first named Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and Ground 12 of Schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave, rent statement, section 11 notice and evidence of compliance with the rent arrears pre-action protocol were lodged.
2. A copy of the application was served on the Respondent by Sheriff Officer on 01 December 2025, together with an application for a payment order under Chamber reference CV/25/3086. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 26 January 2026 and that they were required to participate. The CMD on 26 January 2026 proceeded in the absence of the second named Respondent Mrs Lisa Paterson (“Mrs Paterson”). The first named Respondent

Mr David Paterson ("Mr Paterson") had attended and represented himself and stated Mrs Paterson was no longer residing in the Property. The Applicant was represented at the CMD by their solicitors. The eviction application and the related civil payment application were continued to an evidential hearing and a direction was issued to parties in relation to information/documentation they were required to provide in advance of the hearing.

3. On or around 11 June 2026, the parties were notified that an evidential hearing would take place by telephone conference call on 09 July 2026 at 10am and that they were required to participate.
4. Prior to the hearing, on 25 June 2026, the Applicant's solicitors submitted information and documents further to the direction issued by the Tribunal on or around 26 January 2026, and which was crossed over to the other parties. That correspondence included an updated rent statement (with application to increase the sum sought in the related civil payment application) and information about the Applicant's circumstances, also copy email exchange between Mrs Paterson and the Applicant's letting agent whereby it was stated by Mrs Paterson that she was now residing at the Property and Mr Paterson had moved out. On the morning of 09 July 2026, the Housing and Property Chamber ("HPC") received an email from Mr Paterson which stated he was unable to attend the hearing due to work commitments and stated his position regarding the eviction application.
5. The telephone conference hearing took place on 09 July 2026. The Applicant was represented by Ms Wooley of Messrs Bannatyne Kirkwood France and Co, solicitors. As anticipated Mr Paterson did not participate and was not represented. Mrs Paterson was present and represented herself. The application for a payment order under Chamber reference CV/25/3086 was also discussed.

Summary of Discussion at the Hearing

6. The Legal Member summarised the progress of the application to date and invited Ms Wooley to advise what the Applicant's position was in relation to the application(s). Ms Wooley stated that the Applicant was seeking two orders, an eviction order and a payment order.
7. The Legal Member clarified with Ms Wooley that she was aware of the email sent by Mr Paterson that morning and she stated she was. On checking, Mrs Paterson had not had sight of Mr Paterson's email therefore the Legal Member read the content of the email in full to all present. In addition to stating he was unable to attend the hearing due to work commitments Mr Paterson's email stated: he no longer resides in the Property and is currently homeless staying with parents; his ex-partner Mrs Paterson is currently in the Property with their two children and so far as he is aware the housing association had not found suitable accommodation for them, therefore he would ask the tribunal to delay the eviction notice for 12-14 weeks for the housing association to find accommodation as he worries about his children becoming homeless. Mrs Paterson confirmed that Mr Paterson is no longer

residing in the Property and stated she was now there with the two children who are aged 12 and 15 and she agreed that some extra time would assist in the housing association being able to find suitable accommodation, making mention of her currently being in a wheelchair. Mrs Paterson stated the eviction application was not opposed.

8. Responding to the Tribunal, Mrs Paterson explained she had been in touch with the housing association regarding alternative accommodation and had been informed that matters would progress once an eviction order had been granted. Furthermore, Mrs Paterson stated she and Mr Paterson are no longer together and there had been some toing and froing due to her health condition however she moved back into the Property towards the end of April, estimating this to have been on or around 25 April 2025. Mrs Paterson stated it had taken some time but she had recently been granted housing benefit which was going to be backdated and would clear off a chunk of the rent arrears. Mrs Paterson stated that due to her health and having an operation she had been unable to work. In response to the Tribunal, Mrs Paterson stated she had advised the local authority that she was using a wheelchair after spinal surgery and they had been very good telling her they would try and get accommodation as soon as possible for the family. Mrs Paterson indicated that her two children go back to school sometime in August, and her daughter who is 15 years old suffers from anxiety and depression and causes harm to herself. Mrs Paterson explained the health difficulties she has faced and continues to endure, including depression and mobility issues.
9. The Tribunal noted from Ms Wooley that the Private Residential Tenancy agreement lodged with the application states the tenancy started on 05 February 2021, with initial rent of £525. Ms Wooley stated a Rent Increase Notice had been lodged which stated the rent had increased to £550 with effect on 05 September 2022. A Notice to Leave dated 20 December 2024 with an expiry date of 21 January 2025 noted therein with information in support of Ground 12 which was being relied upon by the Applicant, more particularly that the arrears arose on or around 15 September 2024 and the tenants had been in arrears for three consecutive months at the time the Notice to Leave was issued and that has remained the position to date. Ms Wooley stated the Notice to Leave had been served on the tenants by Royal Mail recorded delivery and the delivery receipts had been lodged evidencing that the Notices had been delivered on 24 December 2024. Ms Wooley stated the Section 11 Notice lodged with the application was emailed to the local authority on 17 July 2025, the same day as the eviction application was lodged. Responding to the Tribunal, Ms Wooley explained the Applicant's letting agents' procedure regarding rent arrears and in respect of the pre-action protocol which amongst other letters included the two emails dated 08 January 2026 and 28 February 2026 lodged with the HPC. Ms Wooley had been informed that reminder letters had been issued when the arrears first arose and subsequent correspondences had been issued after the emails lodged with HPC. The emails and letters stated the level of arrears, signposted for advice and assistance and sought to agree a payment plan with the tenants to resolve the arrears. An updated rent statement was produced on 25 June 2026 to evidence the current level of arrears.

Responding to the Tribunal, Mrs Paterson confirmed the tenancy agreement had been entered into voluntarily, it had commenced on 05 February 2021, the rent had initially been £525 per calendar month due in advance and this increased to £550 in September 2022 and she accepted the arrears accrued were now standing at £4,200. Mrs Paterson stated that the Notice to Leave had been received, Mr Paterson had received them as she had been in hospital at the time but she confirmed she was aware of the Notice.

10. Responding to the Tribunal, Ms Wooley stated that at the earlier stages of the applications the Applicant had had a cash flow issue. The Applicant had one other rental property which was located in England but that property had now been sold. The lack of rent had formed part of a wider review of the Applicant's assets and they intend to sell the Property once possession is recovered as they wish to withdraw from the rental market altogether.

Findings in Fact

11. The Applicant is the owner and landlord of the property.
12. The Respondent is the tenant of the property in terms of a private residential tenancy agreement which commenced on 05 February 2021.
13. The initial calendar monthly rental was £525. A Rent Increase Notice was issued to the Respondent on 26 May 2022 stating the rent would increase to £550 with effect from 05 September 2022. The Respondent is due to pay ongoing rent of £550 per calendar month in advance.
14. The Respondent has been in arrears of rent since on or around 15 September 2024, with regular payments of £550 monthly being made to the account from 30 April 2025 to 30 March 2026 (believed to be from universal credit awarded to Mr Paterson until he moved out of the Property). The last payment received by the Applicant to the Respondent's rent account was £550 made on 30 March 2026.
15. The Respondent currently owes £4,200 in unpaid rent.
16. The Applicant's letting agents made efforts to engage the Respondent and issued correspondences in compliance with the rent arrears pre-action protocol.
17. The Respondent resided in the Property when the tenancy commenced. Mr Paterson no longer resides in the Property, believed to have moved out in April 2026. Mrs Paterson is currently residing in the Property having moved back there in April 2026 and she continues to reside there with the couple's two children.
18. The Respondent is believed to have endured health issues which include undergoing surgery which impacts upon her mobility.

19. The Applicant is said to intend to sell the Property upon recovering possession of it as they wish to withdraw from the rental market altogether.

Reasons for Decision

20. The application was submitted with a copy signed Private Residential Tenancy agreement. The Respondent has resided at the Property since 05 February 2021 with both Mr Paterson and Mrs Paterson having resided there until more recently when one or other of them continued to reside in the Property with the two children.
21. The application was also submitted with a Notice to Leave dated 20 December 2024, together with a copy which establishes that the Notice was served on the Respondent on 24 December 2024. The Notice states that an application to the Tribunal is to be made on ground 12 (rent arrears over three consecutive months).
22. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
23. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
24. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states "(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in 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." Sub-Paragraph (4) states, "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 Minister in regulations." Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant's rights in relation to eviction proceedings and how the tenant can access information and advice.
25. The Tribunal accepted the unchallenged evidence of the Applicant in the form of the documents submitted and the information provided at the hearing. The

Tribunal is satisfied that the Respondent currently owes £4,200 in unpaid rent and has been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave, when the application was lodged, at the CMD on 26 January 2026 and today's hearing. Ground 12 is therefore established.

26. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -

- (a) The Tribunal is satisfied that the Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant provided copies of email correspondences issued to the Respondent in compliance with the protocol.
- (b) The Tribunal accepted the evidence of Mrs Paterson that she has applied with housing benefit and she is currently awaiting for a backdated sum to be paid over with a view to reducing the level of the arrears in due course.
- (c) Mr Paterson did not participate in the hearing however he had sent an email early that morning to explain why he was unable to attend and providing detail of his position that he wished the Tribunal to consider. Mr Paterson's did not express any opposition to the eviction application and expressly that an eviction notice be delayed.
- (d) The arrears are significant and are increasing. No payments have been made since 30 March 2026.
- (e) Mrs Paterson is believed to be engaging well with the Applicant's letting agent in order to reduce the level of arrears and regarding her efforts to secure alternative accommodation for the family.
- (f) The Tribunal noted that the Applicant company had one other rental property which was located in England however that has been sold; the Applicant had indicated it was their intention is to sell the Property once possession is recovered as they want to withdraw from the rental market altogether. The title sheet to the Property discloses a standard security granted by the Applicant and secured over the Property and the Tribunal heard that the Applicant had suffered cash flow issues earlier in the current proceedings and had now carried out a review of their assets, leading them to determine that they no longer want to participate in the rental market.

The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and that ground 12 has been established. For the reasons outlined in paragraph 26, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction but determined additional time be allowed to the Mrs Paterson to progress arrangements to secure suitable alternative accommodation.

Decision

The Tribunal determines that an eviction order should be granted against the Respondent, with the earliest date of eviction in said order stated as 08 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.

Elaine Paton

Elaine Paton, Legal Member

09 July 2026