

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 71(1) Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/CV/25/1308

Re: Property at 126 Summerpark Road, Dumfries, Dumfries and Galloway, DG1 3FU (“the Property”)

Parties:

Dumfries and Galloway Homes Limited, 7 Gifhorn House, Shakespeare Street, Dumfries, DG1 2JB (“the Applicant”)

Mrs Claire Fletcher, 126 Summerpark Road, Dumfries, Dumfries and Galloway, DG1 3FU; and Mr David Fletcher, 27 Herries Court, Heathhall, Dumfries, Dumfries and Galloway, DG1 3TL (“the Respondent”)

Tribunal Members:

Elaine Paton (Legal Member) and Peter McEachran (Ordinary Member)

Decision (in absence of the second named Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent of the sum of NINE THOUSAND, FOUR HUNDRED AND THIRTEEN POUNDS AND NINETY-NINE PENCE (£9,413.99) be granted in favour of the Applicant.

Background

1. An application was received from the Applicant on 26 March 2025 seeking a payment order in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy) of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). A tenancy agreement, rent statement, and rent increase notices were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officers on 23 September 2025 at the Property, together with the related eviction

application (EV/25/1307) under rule 109 of the 2017 rules, which included evidence of compliance with the rent arrears pre-action protocol. The parties were notified that a case management discussion ("CMD") would take place by telephone conference call on 30 October 2025 and that they were required to participate. The CMD on 30 October 2025 proceeded. The Applicant was represented by their legal representative. The first named Respondent ("Clare Fletcher") did not attend but she was represented by her solicitor. The second named Respondent ("David Fletcher") attended and represented himself. David Fletcher stated he no longer resided in the Property but his children did and he did not wish them to be without a home; he admitted that arrears of rent were due and unpaid but was of the view that he was not responsible for any rent applicable to the period after he had left the Property. The Tribunal allowed a hearing to be assigned for a later date and produced a note of the CMD and a Notice of Direction to parties. Subsequently, the parties were notified that a hearing would take place by telephone conference call on 16 April 2026 at 10am and that they were required to participate. The Notification to David Fletcher was sent to him at the Property.

Postponement of hearing on 16 April 2026

3. The Tribunal considered a request dated 14 April 2026 on behalf of the Applicant to postpone the teleconference hearing scheduled for 16 April 2026 at 10.00am and that, in respect of the reasons set out in their relative correspondence, also that Clare Fletcher's representative stated the position was agreed by their client. However, the Tribunal noted David Fletcher had not been notified of the request. In terms of Rule 28 of the 2017 Rules, all other parties must be notified (if practicable) in relation to such a request for postponement and the tribunal may only postpone a hearing on cause shown. The postponement application to the Tribunal was notified at short notice and did not comprise a factor that might more usually be stated in order to demonstrate cause shown to satisfy the grant of the application by the Tribunal. Separately however, the Tribunal had noted David Fletcher may not have received certain other documentation in relation to the Applicant's civil payment application or the related eviction application. Consequently, the Tribunal on its own initiative determined that the scheduled hearing be postponed to another date not earlier than three months later to allow David Fletcher time to properly consider the application paperwork and subsequent submissions lodged on behalf of the Applicant and Clare Fletcher and to obtain his own independent legal advice and/or money advice regarding his circumstances and obligations under the tenancy agreement for the Property and to ensure his correct postal address was noted on the Housing and Property Chamber ("HPC") system. The stated timeframe allowed sufficient time to account for the circumstances specified in the Applicant's postponement request, as agreed on behalf of Clare Fletcher. A Direction was issued to the parties on or around 23 April 2026. In terms of that Direction David Fletcher was invited to lodge documents in support of his position. David Fletcher confirmed to the HPC administration by email on 02 June 2026 that his address was correctly noted and he had received all papers sent to him (comprising the application papers, subsequent correspondences issued to parties, submissions from the other parties, and the

Note of Postponement decision with relative Direction issued by the Tribunal on 23 April 2026).

4. On or around 30 June 2026, the parties were notified that a hearing would take place by telephone conference call on 23 July 2026 at 10am and that they were required to participate. In advance of the scheduled hearing, various submissions were received from the parties and crossed over. On or around 01 July 2026, David Fletcher lodged a submission which included a statement that he left the Property on 17 July 2023 together with his daughter, they had been homeless for a period before securing alternative accommodation; he produced an email he had received from the Council Tax department at Dumfries and Galloway Council which stated his occupation at the Property for Council Tax purposes was the period 21 December 2017 to 17 July 2023. Also lodged were copies of email exchanges with the Applicant's staff stating he wanted his name taken off the tenancy agreement and he was not liable for rent after he had left the Property. Reference was made to a snip of David Fletcher's new tenancy agreement but this had been omitted.

Request for postponement of the hearing 23 July 2026 (related civil application ref. CV/25/1308 only)

5. On 14 July 2026, David Fletcher requested a postponement of the hearing scheduled for 23 July 2026 regarding the present civil payment application (he made no mention of the related eviction application ref. EV/25/1307). The HPC administration crossed over the correspondence. The Tribunal directed David Fletcher to lodge evidence in support of his request within a stated timescale, and invited the other parties to respond if so desired within that same timescale; the communication to all parties from the Tribunal stated that the hearing would proceed as scheduled in respect of the related eviction application. The representatives for the Applicant and Clare Fletcher both responded timeously and reiterated that they were opposed to postponement in relation both applications scheduled to be heard. David Fletcher did not respond. The Tribunal refused the postponement request and the HPC administration issued the decision by email to all parties late afternoon on 22 July 2026, which decision stated that both applications would be heard on 23 July 2026 as scheduled.
6. On the morning of the scheduled hearing, the Tribunal was made aware of late submissions received by the HPC administration the previous day from the solicitors representing the Applicant and Clare Fletcher who had had further discussions in relation to the other's respective submissions, and had reached a settlement arrangement. The correspondences had been sent to David Fletcher.
7. The telephone conference hearing took place on 23 July 2026. The start time of the hearing was delayed for 10 minutes, thereby allowing time for David Fletcher to dial-in to join the call. Ms Irene Callendar, a manager with the company Applicant was present however the Applicant was represented by Ms Donnelly of T C Young, solicitors. Clare Fletcher was not present but was represented by Mr Bryce of Pollock & McLean, solicitors. David Fletcher did not

participate and was not represented. The application for an eviction order under Chamber reference EV/25/1307 was also discussed.

Summary of Discussion at the Hearing

8. The Legal Member summarised the progress of the application to date and clarified that the Tribunal decision regarding David Fletcher's postponement request for the related civil application (with confirmation also that both applications would proceed as scheduled) had been communicated to them the previous day, which it had. It was stated to all present that whilst a settlement had been reached between the Applicant and Clare Fletcher, David Fletcher was not party to that agreed position and the Tribunal would take that into account and note the position he had stated previously together with any submissions lodged by him that might support his position.
9. Ms Donnelly stated that the Applicant was seeking a payment order against both named respondents on the basis that the rental obligations under the tenancy agreement were joint and several between them. Ms Donnelly referred to the application lodged seeking amendment of the sum sought to £10,023.99 as at 14 July 2026, which had been crossed to the Respondent, and stated that three very recent payments had been received since the updated Rent Statement had been lodged: those payments more particularly were £500 from universal credit, and payments of £70 and £40 from Clare Fletcher therefore the £10,023.99 balance had been reduced to the current level of unpaid rent of £9,413.99. Ms Donnelly stated that the Applicant was seeking the sum sought to be amended to that lower figure. In terms of the discussions between Ms Donnelly and Mr Bryce regarding their clients' respective positions, Mr Bryce stated that the £9,413.99 unpaid rent was accepted by Clare Fletcher as being lawfully due by the Respondent in terms of the tenancy arrangement. David Fletcher's position at the CMD and re-stated in his written submission on 01 July 2026 is that he admits liability in terms of the tenancy agreement for arrears of rent accrued until he left the Property but was not responsible for rent thereafter.
10. The Tribunal noted the Private Residential Tenancy agreement lodged with the application states the tenancy started on 21 December 2021, with an initial rent of £482 per calendar month due in advance on the 1st day of each calendar month. The resting rent was £514.54 at 01 July 2021 evidenced by a comprehensive rent statement produced showing payments to the account had been met at that figure. The rent was increased to £524.83 effective 01 July 2022 by Rent Increase Notice dated 21 March 2022, then to £540.57 effective 01 August 2023 by Rent Increase Notice dated 24 April 2023, thereafter to £573 effective 05 August 2024 by Rent Increase Notice dated 30 April 2024, all notices were issued to the Respondent. The rent statement produced demonstrated there were three consecutive months arrears of rent when a Notice to Leave was served upon the Respondent on 29 January 2025 regarding the related eviction application (EV/25/1307) and thereafter when both applications were lodged with the First-tier Tribunal HPC. In response to the Tribunal, Ms Donnelly stated she was unaware when the rent account had been at zero balance explaining that she could confirm that since 2021 there

had been consecutive months arrears of rent and that position had endured to date. Ms Donnelly continued to explain that the Applicant had attempted to engage both respondents over the years regarding their arrears, and had signposted them to advice agencies and organisations to obtain assistance as well as agreeing to payment arrangements - despite that, the arrears have increased. In response to the Tribunal, Ms Donnelly stated the Applicant was content to accept that David Fletcher left the Property on 17 July 2023 as supported by the copy email produced by him that he had received from Dumfries and Galloway Council's Council Tax department. The Tribunal noted the level of unpaid rent at 17 July 2023 was £2,667.70. Further in response to the Tribunal regarding David Fletcher's position that he is not liable for the rent accrued after he left the Property, Ms Donnelly stated David Fletcher is still a tenant under the tenancy arrangement and an unfortunate consequence of the legislation in relation to termination of private residential tenancies is that David Fletcher remains jointly and severally liable under the terms of the tenancy agreement even though he is no longer residing in the Property. Ms Donnelly referred the Tribunal to production item 28 for the Applicant which she stated demonstrated David Fletcher had been told that it was necessary for both parties to terminate the tenancy arrangement and he was signposted to seek advice, including from a solicitor. The same position had been put to Clare Fletcher by the Applicant also. Responding to the Tribunal, Mr Bryce stated Clare Fletcher accepted that David Fletcher left the Property on 17 July 2023 and regarding David Fletcher's assertion that he is not liable for rent after that date, Mr Bryce concurred with Ms Donnelly's explanation of the unfortunate position David Fletcher is in: he is joint and severally liable under the tenancy agreement until such time as the tenancy is terminated. The Tribunal had noted from the papers that David Fletcher was stated to have requested return of the deposit paid by the Respondent at the commencement of the tenancy arrangement in December 2017, which request had been challenged by the Applicant and a sum of £482 was credited to the rent account thereby reducing the arrears. Ms Callender, a manager with the company Applicant confirmed the deposit position was correct and that no other deposit monies had been paid over by the Respondent.

Findings in Fact

11. The Applicant is the registered landlord of the Property.
12. The Respondent is the Tenant of the Property in terms of a private residential tenancy agreement which commenced on 21 December 2021.
13. In terms of the said private residential tenancy agreement produced, clause 1. Tenant states: *"Where there is a joint tenancy, the term "Tenant" applies to each of the individuals above and the full responsibilities and rights set out in this Agreement apply to each Tenant who will be jointly and severally liable for all of the obligations of the Tenant under this Agreement."*
14. The initial calendar monthly rental was £482 due in advance on the first of each month and thereafter increased. The resting rent was £514.54 at 01 July 2021. The rent was increased to £524.83 effective 01 July 2022, then to £540.57

effective 01 August 2023, and thereafter to £573 effective 05 August 2024 in terms of Rent Increase Notices dated 21 March 2022, 24 April 2023 and 30 April 2024 issued to the Respondent, and produced amongst the papers.

15. The Respondent has been in arrears of rent since on or before 01 July 2021. The arrears were £2,667.70 at 17 July 2023; £7,832.59 at 01 January 2025; £6,550.89 at 26 March 2025; and £10,023.99 at 14 July 2026. Payments of £500 from universal credit and £70 and £40 by Clare Fletcher were made prior to the hearing which reduced the balance of unpaid rent. The current ongoing rental charge is £573 per calendar month.
16. The Respondent currently owes £9,413.99 in unpaid rent.
17. The Applicant made efforts over a significant period to engage the Respondent and issued correspondences in compliance with the rent arrears pre-action protocol.
18. The Respondent resided in the Property when the tenancy commenced. David Fletcher no longer resides in the Property, believed to have moved out on or around 17 July 2023. Clare Fletcher is currently residing in the Property and is believed to reside there with the couple's two younger children, albeit the couple's oldest child may reside there also on occasions.
19. Clare Fletcher is in receipt of benefits and universal credit payments are made directly to the Applicant regarding the rental charge, with a shortfall sum due to be paid by the Respondent.

Reasons for decision

20. The Tribunal accepted the evidence on behalf of the Applicant in documentation and oral submission regarding the sum of arrears of rent remaining due and unpaid by the Respondent. The Tribunal noted that Clare Fletcher accepted the level of arrears stated on behalf of the Applicant to be remaining due and unpaid by the Respondent.
21. The Tribunal did not accept David Fletcher's position that he was not liable for rent after he left the Property. The tenancy agreement states the named individuals described as "Tenant" are jointly and severally liable regarding all of the obligations under the agreement. The Applicant had urged David Fletcher to obtain advice in relation to the termination of the tenancy agreement. On 23 April 2026 a Direction was issued to parties by the Tribunal following upon postponement of the hearing scheduled for 16 April 2026 in order to allow David Fletcher an opportunity to receive and fully consider the application papers and subsequent submissions and to obtain legal and/or money advice in relation to his position. David Fletcher was expressly invited to seek independent legal advice in relation to his obligations in terms of the tenancy agreement regarding the Property.

22. The Tribunal was satisfied the Respondent had been made aware of the updated rent statement at 14 July 2026 demonstrating a balance of £10,023.99 in terms of the Applicant's solicitor's email dated 16 July 2026 having been crossed over to the Respondent. The Tribunal was satisfied the Respondent was not prejudiced in that the balance of £10,023.99 detailed in the updated rent statement had been reduced as a consequence of recent payments credited to the rent account, more particularly: £500 from universal credit and payments of £70 and £40 from Clare Fletcher. Considering the recent payments made, the Tribunal was satisfied from the evidence before it that the Respondent owes the Applicant £9,413.99 in unpaid rent. It therefore grants an order for payment by the Respondent to the Applicant for that amount.

Decision

The Tribunal grants an order for payment by the Respondent to the Applicant of the sum of £9,413.99.

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, Legal Member

23 July 2026