



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

Chamber Ref: FTS/HPC/EV/26/0661

Re: Flat 1 2/R, Victoria Road, Saltcoats, KA21 5LG ('the Property')

Parties:

Cristina Chiriac, 67 Sewell Close, Chafford, Hundred Grays, RM16 6BF ('the Applicant')

Mackenzie Way, Saltcoats (The Applicant's Representative')

David Cox, 1, 2R Victoria Road, Saltcoats, KA21 5LG ('the First Respondent')

Sarah Jayne Curran, 1, 2R Victoria Road, Saltcoats, KA21 5LG ('the Second Respondent')

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

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

1. Background

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

1.2 The application was dated 10th February 2026. The application stated that the ground for eviction was as follows:

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

1.3 Documents lodged with the Tribunal were:-

- Private Residential Tenancy Agreement by the Applicant dated 31st July 2024.
- A rent statement for the period 31st July 2024 to 27th October 2025 showing arrears of £4745
- A rent statement for the period 31st July 2024 to 3rd February 2026 showing arrears of £3500.
- Notice to Leave dated 13th November 2025 advising the Respondent that an application for an eviction order on the ground that there has been rent arrears over three consecutive months (outstanding £3255) will not be submitted to the Tribunal before 5th February 2026.
- Certificate of execution of Notice to Leave dated 13th November 2025 by Gavin Munro, Sheriff Officer.
- Section 11 Notice addressed to North Ayrshire Council.
- Email to North Ayrshire Council dated 10th February 2026 attaching the section 11 Notice.
- Copies of Pre action emails sent to the Respondents dated 12th February 2025, 14th February 2025, 26th February 2025, 27th February 2025 and 27th March 2025.
- Mandate by the Applicants authorising Mackenzie Way to act for them.

2. By Notice of Acceptance by Fiona Watson, Convener of the Tribunal, dated 24th April 2026, she intimated that she had decided to refer the application (which application paperwork comprises documents received on/ between 10th February 2026 and 17th March 2026) to a Tribunal.

3. Case Management Discussion.

This case called for a conference call Case management Discussion (CMD) at 14.00 on 31st July 2026.

Christine Dailly, office manager of Mackenzie Way and Boyd Parks, office administrator of Mackenzie Way, the Applicant's Representatives, attended the CMD.

David Cox, the First Respondent attended and represented both himself and the Second Respondent.

The parties agreed that the current rent arrears amount to £4125. The rent due in terms of the tenancy agreement was £500 per month.

Mr Cox advised that he did not object to the eviction application and himself and Sarah Curran will move out within the next two to four weeks. They will stay with a family member until they get themselves on their feet.

4. Decision

4.1. Requirements of Section 109 of the Procedure Rules.

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

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

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

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

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

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

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

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

The Notice to Leave was dated 13th November 2025 and advised the Tenant that the Applicant intends to apply to the Tribunal for an eviction order in respect of the property on the basis of Ground 12 (The Tenant is in rent arrears over three consecutive months). It also advised that an application would not be submitted to the Tribunal for an eviction order before 5th February 2025.

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The Tenancy commenced on 31st July 2024. As at 13th November 2025 (the date of the Notice to Leave) the Tenant had resided in the property for more than six months.

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

The Landlord served the Notice to Leave on the Tenants on 13th November 2025 by sheriff officer and correctly gave the Tenants a minimum of twenty eight days notice.

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

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

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

4.2 The Tribunal made the following findings in fact:

4.2.1 The Respondents are Tenants of the Property in terms of the lease between the parties.

4.2.2 The start date of the Tenancy detailed in the lease was 31st July 2024.

4.2.3 Applicant is Landlord of the Property. The Tribunal had a copy of the Applicants' title deeds being Land Certificate AYR32459.

Section B of the Land Certificate confirmed that the Applicant is heritable proprietor of the Property together with Vasile Ipate.

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

4.2.5 The rent due in terms of the tenancy agreement was £500 per month.

4.2.6 The Notice to Leave was dated 13th November 2025 and it was served on the Respondent by Sheriff Officer on 13th November 2025.

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

4.2.8 The rent account has been in arrears since 31st January 2025.

4.2.9 The Applicant had sent the Respondents pre-action emails dated 12th February 2025, 14th February 2025, 26th February 2025, 27th February 2025 and 27th March 2025.

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

5.3.1. The Tribunal determined that the Respondents had been in arrears of rent for three or more months at 13th November 2025, the date of the Notice to Leave, 10th February 2026, the date of the Application to the Tribunal and at today's date.

5.3.2 Mr Cox had accepted that the rent arrears were due and did not advise that the rent arrears were due to a delay or failure in payment of a relevant benefit.

5.3.3 The Tribunal found that it was reasonable for the eviction order to be granted for the following reasons:

5.3.3.1 The fact that the Applicant had issued pre-action emails to the Respondents.

5.3.3.3 The fact that the Respondents consent to the eviction order being granted and have made alternative housing arrangements.

5.4 The Tribunal found in law that the ground in Schedule 3(12)(1) of the 2016 Act was met.

5.5 The Tribunal granted the eviction but determined that the Order should not to be executed prior to 12 noon on 1st September 2026.

6. 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 Taylor

Legal Member

31st July 2026