

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/26/1139

Re: Property at The Stables, Mauldslie Road, Brownlee, Carluke, South Lanarkshire, ML8 5HW (“the Property”)

Parties:

Dr Gajendra Reddy, Flat 5/1, 7 Randolph Gate, Jordanhill, Glasgow, G11 7DH (“the Applicant”)

Mr Calum Knox, Miss Leiha Martin, The Stables, Mauldslie Road, Brownlee, Carluke, South Lanarkshire, ML8 5HW (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

In terms of section 54(1) of the 2016 Act, the private residential tenancy between the parties will end on 1 August 2026.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 12 of schedule 3 of the 2016 Act as the ground for eviction, stating that the rent account had been in arrears for three or more consecutive months.

- 2 The application was accepted and referred to a tribunal for determination. A case management discussion ("CMD") was scheduled to take place on 30 June 2026 at 2pm. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondents by sheriff officers.
- 3 On 12 June 2026 the Tribunal received written representations from the Respondents along with a request to postpone the CMD on health grounds. The tribunal determined to refuse the request as the Respondents had not provided sufficient evidence in support of their reasons. The tribunal further considered that a postponement would be overly prejudicial to the Applicant in the circumstances of the case.
- 4 The Respondents provided further written representations in advance of the CMD.

The CMD

- 5 The CMD took place by teleconference on 30 June 2026 at 2pm. The Applicant joined the call and was accompanied by his wife. The Respondents did not join the call. The tribunal noted the terms of their written representations and determined to proceed in their absence.
- 6 The tribunal had before it the Form E application, private residential tenancy agreement between the parties, notice to leave and proof of delivery to the Respondents, section 11 notice and proof of delivery to the local authority, rent statement, and email correspondence between the Applicant and the Respondent, and the Applicant and the Respondent's guarantor. The tribunal also had the written representations from both the Applicant and the Respondents.
- 7 The tribunal heard submissions from the Applicant on the application. The following is a summary of the key elements of the submissions.
- 8 The Applicant noted that the Respondents had latterly put forward a payment proposal in their written representations which he objected to. No rent had been made for ten months. The arrears now stood at £19,000. The Applicant had written to the Respondents regarding the arrears but had received hostile responses.
- 9 The Applicant explained the background to the tenancy. The Applicant had applied for a short-term let licence for the property in October 2024 after he and his family moved to a rental property in Glasgow to be closer to their

son's school. However, after objections were received from a neighbour, and on the advice of his letting agent, he decided to let the property under a private residential tenancy. The Respondents took on the tenancy. They paid the first months rent for July/August 2025. They were then late in paying the rent for September. No rent was paid for October and at that point the Applicant decided to take steps to terminate the tenancy and manage it as a short-term let, having been successful in obtaining a licence from the council. The Applicant's finances are now drained. He is struggling to pay the mortgage and the rent for the property in Glasgow. As such, he and his family have now decided to move back into the property. The Applicant's wife has mental health issues and the situation is causing them significant stress. The Applicant's wife was audibly emotional during the discussion.

- 10 Regarding the Respondents' circumstances, the Applicant understands they are aged 28 and 23. According to the Applicant's information, the second Respondent is employed and the first Respondent is the director of several companies, one of which appears to involve leasing and letting. The Respondents had been living with the first Respondent's father before they moved into the property. The Applicant believes the Respondents would likely have alternative accommodation available.
- 11 The tribunal adjourned the CMD to deliberate before resuming the proceedings and confirming the outcome.

Findings in fact and law

- 12 The Applicant is the owner and landlord, and the Respondents are the tenants, of the property in terms of a private residential tenancy agreement, which commenced on 23 July 2025.
- 13 The Applicant has given the Respondents a notice to leave within the meaning of section 62 of the 2016 Act. The notice to leave includes ground 12.
- 14 The Applicant gave the local authority a notice under section 11 of the Homelessness etc (Scotland) Act 2003 when making this application.
- 15 The rent payable under the said tenancy agreement is £1900 per month.
- 16 The Respondents last paid rent on 5 September 2025. The rent account has therefore been outstanding for three or more consecutive months. As at the date of this decision the rent arrears amount to £19,000.

- 17 The rent arrears are not known to be due to any failure or delay in the payment of a relevant benefit.
- 18 The Applicant has engaged with the Respondents regarding the rent arrears.
- 19 The Respondents are believed to be aged 28 and 23. The first Respondent is believed to be a director of several companies. The second Respondent is believed to be employed. There do not appear to be any children residing in the property.
- 20 It is reasonable to make an eviction order.

Reasons for decision

- 21 The tribunal considered it had sufficient information to reach a decision following the CMD in the absence of a hearing, and that to do so would not be contrary to the interests of the parties in this case.
- 22 Section 51 of the 2016 Act provides that *“The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”*
- 23 Section 52 of the 2016 Act goes on to state that *“an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.”* The tribunal had before it a copy of a notice to leave in the prescribed form that had been given to the Respondents which cites ground 12 of schedule 3 of the 2016 Act. The tribunal was also satisfied that the Applicant had sent a section 11 notice to the local authority in accordance with the requirements of section 56 of the 2016 Act.
- 24 The tribunal considered the wording of paragraph 12 of schedule 3 of the 2016 Act:-

“Rent arrears

12 (1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2)

(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.

(5) For the purposes of this paragraph—

(a) references to a relevant benefit are to—

(i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),

(ii) a payment on account awarded under regulation 91 of those Regulations,

(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,

(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,

(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.

(6) Regulations under sub-paragraph (4)(b) may make provision about—

(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),

(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

(c) such other matters as the Scottish Ministers consider appropriate.”

- 25 The tribunal accepted that the rent account has been in arrears for three or more consecutive months. The Respondents had admitted this in their written representations, albeit they had put forward several reasons as to why this was the case.
- 26 The tribunal went on to consider whether it was reasonable to make an eviction order on account of the facts in this case, which requires the tribunal to identify those factors relevant to reasonableness and determine what weight should be applied to them.
- 27 The tribunal gave most weight to the level of arrears and the prolonged period of time over which no rent has been paid. When the notice to leave was given to the Respondents the arrears stood at £9,500. They have since doubled to £19,000. It is a significant balance and the tribunal accepted that it would have caused the Applicant serious financial difficulties and stress, particularly as the Applicant has a mortgage over the property and rent to pay for the home he currently resides in.
- 28 There was no evidence before the tribunal to suggest that the arrears were due in any part to a failure or delay in the payment of a relevant benefit. The tribunal was further satisfied that the correspondence the Applicant had sent to the Respondents was sufficient to ensure compliance with the rent-arrears pre-action protocol.

- 29 The Respondents had sought to advance various reasons as to why they had failed to pay rent since September 2025, including the Applicant's changing position regarding his use of the property and allegations of harassment in terms of the Applicant's attempts to recover the rent which he is perfectly entitled to do. Nothing disclosed by the Respondents amounts to an arguable defence to the application. There is no credible explanation as to why the Respondents have not paid the rent lawfully due. The Respondents initially stated in their representations that were actively trying to leave the property and simply required "breathing space" to do so. They latterly sought to put forward a payment proposal, however the tribunal can understand why the Applicant would object to this given their conduct of the tenancy to date. In circumstances where there is such a prolonged pattern of rent arrears and a significant balance outstanding, the tribunal cannot identify any factors that would weigh against the making of an eviction order.
- 30 The tribunal therefore concluded that the provisions of paragraph 12 of schedule 3 of the 2016 Act have been met in this case and determined to make an eviction order.
- 31 The decision of the tribunal was unanimous.

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.


Ruth O'Hare

Legal Member/Chair

30 June 2026

Date