



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

Chamber Ref: FTS/HPC/EV/26/0015

Re: Property at 3/1 65 Causeyside Street, Paisley, Renfrewshire, PA1 1YT (“the Property”)

Parties:

Mr Samir Zaher, Evenlode, Royal Lane, Uxbridge, UB8 3QP (“the Applicant”)

Mr Mark Duncan, 3/1 65 Causeyside Street, Paisley, Renfrewshire, PA1 1YT (“the Respondent”)

Tribunal Members:

Robert MacDonald (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 1 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) are met in this case and that an order for eviction should be granted.

Background

1. This is an application dated 5th January 2026 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 and Procedure 2017) (“The Rules”). The Applicant relied upon ground 12 of Schedule 3 of the 2016 Act as the ground for eviction, namely that that the tenant has been in rent arrears for three or more consecutive months.
2. The application was accepted by the Tribunal as valid on 23rd February 2026 and referred to a Tribunal for determination. A Case Management Discussion (“CMD”) was set down to take place on 25th August 2026 at 10.00am by teleconference. The Tribunal gave notice of the CMD to the parties in

accordance with Rule 17(2) of the Rules. The notice was served on the Respondent by Sheriff Officers on 23rd July 2026 by letterbox service.

3. The Tribunal invited the Respondent to make written representations in response to the application no later than 12th August 2026. No written representations from the Respondent were received by the Tribunal.

The Case Management Discussion

4. The CMD took place on 25th August 2026. The Applicant was represented by his son Mr Ammar Zaher. There was no appearance by the Respondent. The Tribunal delayed the start of the CMD until 1005 to give the Respondent an opportunity to call in. He did not do so, nor did he attempt to join the CMD late.
5. The Tribunal had the following documents before it:-
 - a. Form E application form;
 - b. Land Certificate confirming that the property was owned by the Applicant;
 - c. Evidence that the Applicant was registered as a landlord;
 - d. Email correspondence between the Applicants letting agents and the Respondent;
 - e. A copy of the Notice to Leave and proof of delivery of the Notice to the Respondent on 21st October 2025;
 - f. Copy Section 11 Notice in terms of the Homelessness etc (Scotland) Act 2003 and proof of delivery to the Local Authority on 22nd January 2026;
6. The Tribunal heard submissions from Mr Zaher in support of the application. He explained to the Tribunal that this property was rented out by his father who was 87 years of age and was retired. He owned two rental properties. He had purchased these properties from his savings to provide an income for him in retirement. He had not had any income from this property since May 2025 and was adversely impacted financially as a result. Mr Zaher had lodged with the Tribunal some email correspondence between the letting agents and the Respondent. It demonstrated that in June 2025 the Respondent advised he was recently out of hospital and hoping to start employment again and was wanting to set up a payment plan. A payment plan was entered into to allow the Respondent to pay the rent and an additional £186 per calendar month. That plan was entered into in August 2025, but no payments were received. There was further email correspondence with the Respondent in December 2025 when he indicated that he had been in hospital for most of the year. The Applicant advised that the letting agent had made telephone contact with the Respondent on 7th August 2026. He indicated that he was still living in the property at that time. He had not made any proposal to clear the rent arrears. The property is a one bedroomed flat, and the Respondent is understood to live there by himself. The Applicant had not produced a copy of the tenancy agreement or rent arrear protocol correspondence with the Respondent. There had been no direct contact between the Applicant and the Respondent.

7. The Tribunal adjourned the CMD to deliberate outwith the presence of the Applicants representative. After the adjournment, the Tribunal resumed the Case Management Discussion and confirmed the outcome.

Findings in Fact and Law

8. The Applicant is the owner of the property in terms of a land certificate registered in the Land Register of Scotland under title number REN23809.
9. The Applicant is the landlord, and the Respondent is the tenant of the property in terms of a Private Residential Tenancy agreement which commenced on 23rd January 2025.
10. The Applicant served a Notice to Leave as defined by Section 62 of the 2016 Act on the Respondent by Sheriff Officer on 21st October 2025. In terms of the notice, the Respondent was advised that an application might be submitted to the Tribunal for an Eviction Order after 27th November 2025.
11. A notice in terms of Section 11 of the Homelessness Etc (Scotland) Act 2003 was sent on behalf of the Applicant to Renfrewshire Council on 22nd January 2026.
12. At the time the Notice to Leave was served on the Respondent there were rent arrears of £3100.
13. On the date the application was lodged with the Tribunal there were rent arrears of £4960.
14. At the date of the CMD there were rent arrears of £9300.
15. No rent has been paid by the Respondent since May 2025.
16. An arrangement was entered into with the Respondent in August 2025 in terms of which he agreed to pay the rent together with £186 per month. That arrangement was not adhered to by the Respondent.
17. The letting agents spoke to the Respondent on the 7th August 2026 at which time he was living in the property.
18. There is no proposal by the Respondent to pay the rent arrears or meet his ongoing obligation to pay rent.

19. There was no evidence of failure or delay in any benefit payment to the Respondent.
20. The Applicant is 87 years of age. He invested in two rental properties to provide him an income in his retirement. He has not had any income from this property since May 2025.
21. The Respondent did not lodge a written submission with the Tribunal and did not attend the CMD.
22. The Respondent has been in rent arrears for three or more consecutive months.
23. It is reasonable to make an Eviction Order.

Reasons for Decision

24. The Tribunal was satisfied having considered all the documentary evidence and the submissions from the Applicant at the CMD that it had sufficient information before it to make the relevant findings in fact and to enable it to reach a decision on the application. In the absence of the Respondent the order was not opposed.
25. The Tribunal was satisfied that the Applicant had complied with the statutory requirements in relation to service of a notice to leave on the tenant, and intimation on the local authority.
26. The Tribunal was satisfied that there was no need to fix a hearing in this case.
27. The Tribunal was satisfied that the Respondent was in arrears of for three or more consecutive months.
28. The Tribunal noted the significant extent of the rent arrears.
29. The Tribunal noted that no Private Residential Tenancy Agreement was lodged with the application, and the only correspondence lodged demonstrating the extent to which the Applicant had complied with the pre action protocol prescribed by the Scottish Ministers was the email correspondence regarding an arrangement being entered into with the Respondent.
30. The Tribunal considered the Respondent's circumstances insofar as the Tribunal were aware of them. The Tribunal noted that the Respondent had been unwell during 2025 and had apparently been hospitalised for part of that year. He had however failed to engage with the Tribunal. He had not lodged any

written submission in the case and not attended the CMD teleconference to indicate any opposition to the application.

31. The Tribunal considered whether it was reasonable to make an Eviction Order on account of the information available to it, which required the Tribunal to identify the factors relevant to reasonableness and to determine how much weight should be applied to them.
32. The Tribunal considered the fact that the Respondent had not paid rent since May 2025, resulting in significant rent arrears and that the Respondent had not opposed the granting of the order. There had clearly been some attempt to reach an agreement with the Respondent regarding repayment of the arrears and although it would have been more satisfactory to see the full extent of communications with the Respondent the Tribunal determined that, in the absence of any current proposal by the Respondent to pay the rent and arrears, it should attach significant weight to the fact that that no rent had been paid by the Respondent for 15 months.
33. The Tribunal was satisfied that the provisions of paragraph 12 of Schedule 3 of the 2016 Act have been met in this case.
34. Having considered the factors relevant to reasonableness, the Tribunal concluded that it was reasonable for an order for eviction to be granted.
35. The decision of the Tribunal was unanimous.

Decision

36. The Tribunal granted an order against the Respondent for the eviction of the Respondent from the property under section 51, and under Ground 12 of Schedule 3 to the 2016 Act.

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.

Robert MacDonald

25.08.26

Legal Member/Chair

Date