

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(1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/26/1058

Re: Property at 252 Braehead, Bonhill, Alexandria, Dumbarton, G83 9NE (“the Property”)

Parties:

Mr Alan McCoubrey, 41 Sound of Kintyre, Macrihanish, Campbeltown, Argyll, PA28 6NZ (“the Applicant”)

Miss Nicola Martin, 252 Braehead, Bonhill, Alexandria, Dumbarton, G83 9NE (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr A Khan (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. This is a Rule 109 application whereby the Applicant is seeking an eviction order under ground 12. The Applicant lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 26th November 2023 at a monthly rent of £448.76, a notice to leave with evidence of service, a section 11 notice with evidence of service, pre-action correspondence, and a rent statement to March 2026 showing arrears in the sum of £12,164.68.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officer on 29th July 2026.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 2nd September 2026. The Applicant was in attendance. The Respondent

was not in attendance. The start of the CMD was delayed to allow the Respondent to join the call. The Respondent did not join the call.

4. The Tribunal considered the terms of Rule 29 of the Procedural Rules. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
5. The Applicant said no rent had been paid by the Respondent since November 2023, when a new tenancy agreement was put in place. The Respondent paid £400 at that time, and has paid nothing further. The Respondent indicated she would apply for benefits, claiming she could not afford to pay the rent after splitting up with her partner, but the Applicant was not aware that any benefits had been paid. The rent statement previously provided showed arrears in the sum of £12,164.68 to March 2026. The Applicant said arrears have increased by a further five months of unpaid rent.
6. Responding to questions from the Tribunal, the Applicant said he has not had any communication from the Respondent for several months. He believes that the Respondent is in employment. The Respondent has two school-aged children who are living in the Property. The Respondent has been living in the Property for around 12 years.
7. The Applicant said there are costs involved in maintaining the Property, including insurance. He is concerned the Property may be deteriorating. The rent is low for a three-bedroomed property.

Findings in Fact and Law

8.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced 26th November 2023 at a monthly rent of £448.76.
 - (ii) The Applicant has served a Notice to Leave upon the Respondent.
 - (iii) The Respondent has accrued rent arrears.
 - (iv) The Respondent has been in rent arrears for three or more consecutive months.
 - (v) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
 - (vi) The Applicant has complied with the pre-action protocol.
 - (vii) It is reasonable to grant an eviction order.

Reasons for Decision

9. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if for three or more consecutive months the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that Ground 12 has been established.
10. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the Respondent was in rent arrears as a result of a delay or failure in the payment of a relevant benefit.
11. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. The Tribunal was satisfied on the evidence before it that the Applicant has complied with the pre-action protocol by sending the required correspondence to the Respondent.
12. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
13. The Respondent has not paid rent since November 2023. The arrears are substantial and rising. The Respondent did not see fit to attend the CMD or make any representations to assist the Tribunal in considering reasonableness. The Tribunal took into account the information provided by the Applicant, including the fact that the Respondent has children who are living in the Property. The Tribunal was unable to assess the likely effect of an eviction order upon the Respondent and her children in the absence of any representations. The Respondent has disengaged and is making no effort to pay the rent or address the arrears. The Tribunal considered it likely that, if no order was granted, the arrears would continue to rise. The Tribunal considered the tenancy is not sustainable.
14. The Tribunal considered the Applicant is suffering financially and personally as a result of the Respondent's failure to pay the rent and address the arrears.
15. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend or make representations to the Tribunal to indicate why an order should not be granted, and the Respondent failed to do so. The Tribunal considered it was reasonable to grant the order sought.

Decision

16. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 6th October 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.

Helen Forbes

Legal Member/Chair

2nd September 2026
Date