

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

Chamber Ref: FTS/HPC/EV/26/0488

Re: Property at 35 Torlum Crescent, Newton Mearns, Glasgow, G77 5GS (“the Property”)

Parties:

Mrs Zhongyan Wang, 16 Rochester Avenue, Chorlton, Manchester, M21 7DE (“the Applicant”)

Mr Stephen Foote, Miss Karen Park, 35 Torlum Crescent, Newton Mearns, Glasgow, G77 5GS (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 29th January 2026. The application was submitted under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 29th July 2026, all parties were written to with the date for the Case Management Discussion (“CMD”) of 7th September 2026 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 19th August 2026.

3. On 30th July 2026, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 30th July 2026.
4. On 31st August 2026, the Applicant emailed the Housing and Property Chamber lodging supporting information and advising the current arrears were £26,500.
5. The case was conjoined with case FTS/HPC/CV/26/2757.

The Case Management Discussion

6. A CMD was held on 7th September 2026 at 2pm by teleconferencing. The Applicant was present and was represented by Mr Zhongxu Wang, the Applicant's husband. Mr Harry Williams, a friend of the Applicant, was present for moral support. The First Named Respondent was present. He appeared on behalf of the Second Named Respondent who was not present due to childcare reasons.
7. The Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.
8. The Applicant's representative confirmed that he wished the order for eviction to be made. The arrears are currently £28,250. The last payment was made on 29th June 2026 for £1000. He has not been contacted by the Respondent with regard to a payment agreement to repay the arrears. The Property is a four bedroomed detached house with a study and single garage.
9. The Respondent said that he was not opposing an order being granted. For the last few months the Respondent has been trying to apply for private tenancies. He has not been successful so far. He has got to a final stage but another person has been chosen for the property. The Tribunal asked if he has contacted the local authority housing department. The Respondent said that he has contacted the local authority housing department but has been told it could take years for him to be allocated a property. The Tribunal asked if he has contacted the local authority homeless department. He said that he has not done that. He lives in the property with his partner and his children who are aged 15 years old, 13 years old and nine years old.
10. The Respondent said that the arrears have arisen due to the fact that he had a business collapse. He has also been waiting for money to come through from HMRC but it has taken far longer than he expected. He is still anticipating a large payout from HMRC. He will pay the arrears once he receives this money.
11. The Respondent said that he did start a new job a few months ago. However, given that this application has been ongoing he has had to save his money so that he could pay for a deposit for a new property. This is why he has not paid the rent or the arrears. He does not dispute the outstanding arrears.

12. The Tribunal was content that the rent arrears were due and that there were no issues of reasonableness stopping an order for eviction being granted.

Findings and reason for decision

13. The Applicant is the registered owner of the Property.
14. A Private Rented Tenancy Agreement commenced 16th December 2024.
15. On 16th December 2025 the Applicant served upon the Respondents a Notice to Leave as required by the Act. Service was effected by email and the Notice became effective on 16th December 2025.
16. The Notice informed the Respondents that the Applicant wished to seek recovery of possession using the provisions of the Act.
17. The Notice was correctly drafted and gave appropriate periods of notice as required by law.
18. The Notice set out one of the grounds contained within schedule 3 of the Act, namely ground 12 (that the Respondents had been in arrears of rent for three or more consecutive months)
19. The Respondents have persistently failed to pay their rent charge of £2500 per month. The rent payments are due to be paid on the sixth day of each month.
20. The Respondents had been in rent arrears for three or more consecutive months when the notice was served. The rent account has been in arrears since at least October 2025.
21. There are no outstanding Universal Credit Housing Element issues.
22. The Respondents are not opposed to the granting of an order. The Respondents are actively seeking alternative accommodation.
23. The arrears sought totalled £28,250.
24. Appropriate accounting had been provided in respect of the outstanding rent with the application to the Tribunal.
25. The basis for the order for possession on ground 12 was thus established.

Reasons for the decision

26. The Order for possession sought by the Applicant was based on a ground specified in the Act and properly narrated in the Notice served upon the Respondent. The Tribunal was satisfied that the Notice had been served in accordance with the terms of the Act and that the Applicant was entitled to seek recovery of possession based upon that ground.

27. The Tribunal accepted the evidence presented on behalf of the Applicant with regard to the rent arrears. A rent statement was produced which set out the history of the arrears.
28. From October 2025 until the date of the CMD, the Respondents failed to pay the whole rent as it fell due and significant arrears have accrued.
29. From October 2025 to the date of the CMD only £1000 has been paid to the rent account. No formal agreement had been reached with regard to repayment of the arrears, and it was indicated that the Respondents have generally refused to cooperate with the Applicant's letting agent in respect of dealing with the rent arrears.
30. The Applicant's letting agent has sent letters to the Respondents on various dates in compliance with the provisions of the pre action protocols set out in the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
31. The Tribunal was satisfied that the Respondents had been in arrears for a period far in excess of three consecutive months and the arrears owed were significant. The ground for eviction based on rent arrears was accordingly established.
32. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on ground 12 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
33. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
34. The Tribunal now has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the Tribunal to grant the order or decline to grant the order will be relevant. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties. This is confirmed by one of the leading English cases, **Cumming v Danson**, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in an oft-quoted passage:

“[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little

or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account”.

35. The Tribunal further notes that in an Upper Tribunal case, **Scott Mackellar v. Nicola Carlin** (2025UT19 UTS/AP/24/0008), Sheriff Reid issued a decision dated 25 March 2025. In that decision the Upper Tribunal quashed a decision of the First-Tier Tribunal refusing an eviction application and granted an eviction order.

36. In that decision at paragraph 31, Sheriff Reid indicated that:-

“the FTS has fallen into error in its overall assessment of reasonableness, in respect that no reasonable Tribunal could properly have concluded, on the evidence available, that it was not reasonable to grant an order for eviction in circumstances where the tenant (i) has not paid full rent in more than a year (a fortiori to the objectively-significant extent proven by the Appellant); (ii) has not responded to correspondence seeking payment of the arrears or cessation of the persistent ongoing monthly shortfalls in rent; and (iii) has made no proposals whatsoever to clear the arrears or to resume full contractual payments, still less within a reasonable period”.

37. In this case the Tribunal finds that it is reasonable to grant the order.

38. The issue of reasonableness, while fully considered, was viewed in the context of the action not being opposed. Accordingly, this weighed in the favour of granting the Order.

39. The level of arrears is significant. The arrears are not currently reducing. The Respondents have failed to communicate with the Applicant’s letting agent or the Applicant to enter into a payment arrangement to deal with ongoing rent and arrears.

40. The Respondents admit the arrears.

41. In all the circumstances the Tribunal decided that it was reasonable to grant the order sought.

42. The Tribunal decided to exercise the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

Decision

43. The Tribunal found that ground 12 has been established and granted an order in favour of the Applicant.

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.

Gabrielle Miller

7th September 2026

Legal Member/Chair

Date