



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/26/0659

Re: Property at 56 G/R, PROVOST ROAD, DUNDEE, DD3 8AH (“the Property”)

Parties:

Mrs Rabia Salimi, 129A Broughty Ferry Road, Dundee, DD4 6LB (“the Applicant”)

Mr Kaloyan Marinov, 56 G/R, PROVOST ROAD, DUNDEE, DD3 8AH (“the Respondent”)

Tribunal Members:

Craig Chisholm (Legal Member) and Helen Barclay (Ordinary Member)

Decision

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

Background

1. By application dated 10 February 2026, the Applicant sought an order in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”).
2. On 14 April 2026 the application was accepted by the Tribunal and referred for determination by the Tribunal.
3. A case management discussion (CMD) was set to take place on 11 September 2026, and appropriate intimation of that hearing was given to all parties.

The Case Management Discussion

4. The CMD took place on 11 September 2026 *via* telephone conference call. The Applicant was represented by Mr Salimi. The Respondent was personally present and represented by Ms Falconer of Messrs Dundee Law Centre at the CMD.
5. The Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.
6. The Tribunal asked various questions of the parties with regard to the application.
7. The Applicant's representative confirmed the Applicant wished for the order for eviction to be made.
8. The Respondent's representative confirmed the Respondent were opposed to an order being made.

Findings in Fact

9. The Applicant is the registered owner of the Property.
10. The Applicant and the Respondent are respectively the landlord and tenant under a Private Residential Tenancy Agreement in terms of the 2016 Act for the Property, commencing on 24 May 2019.
11. On 9 January 2026 the Applicant served upon the Respondent a Notice to Leave (NTL) as required under the 2016 Act. Service was effected by email. The NTL informed the Respondent that the Applicant wished to seek recovery of possession under ground 12 contained within Schedule 3 of the 2016 Act, namely that the tenant had been in arrears of rent for three or more consecutive months.
12. The NTL was correctly drafted and gave appropriate periods of notice as required by law.
13. The initial agreed monthly rental was £360 per month. Rent was increased on 24 August 2023 to £391.40 per month and on 24 August 2024 to £438.37 per month.

14. Arrears have accrued since around August 2025 and at the date of the lodging of the application arrears amounted to £2,977.46. The amount of arrears at the date of the CMD was £6,046.05.
15. Appropriate accounting had been provided in respect of the outstanding rent as at the date of the application to the Tribunal.
16. The basis for the order for possession on ground 12 was thus established.

Reason for Decision

17. The order for possession sought by the Applicant was based on the ground specified in the 2016 Act and was properly narrated in the NTL served on the Respondent. The Tribunal was satisfied that the NTL had been served in accordance with the terms of the 2016 Act and that the Applicant was entitled to seek recovery of possession based upon those grounds.
18. The Tribunal accepted the evidence of the Applicant regarding the rental arrears. A rent statement was produced setting out the history of arrears. Since August 2025, the Respondent had failed to pay the full rent as it fell due and significant arrears had accrued. The last payment made by the Respondent was on 15 August 2025 and since that date no payments have been made, despite efforts from the Applicant to engage with the Respondent regarding the sums outstanding.
19. The Tribunal was satisfied that the Respondent has been in arrears for a period far in excess of three consecutive months. There are approximately 13 months arrears due. The Tribunal accepted the evidence of the Applicant regarding arrears. The Tribunal accepted that the Applicant had made appropriate attempts to encourage the Respondent to deal with the arrears.
20. The level of arrears was not disputed by the Respondent.
21. Ground 12 was accordingly established.

Decision

22. The Tribunal 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. This is confirmed by one of the leading English cases, *Cumming v Danson* [1942] 2 All ER 653 at 655, where Lord Greene MR said:

“In 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 conclusions 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.”

23. 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.
24. In this case, the Tribunal finds that it is reasonable to grant the order. The balance of reasonableness in this case is weighted towards the Applicant in this application.
25. The Respondent was last in employment in 2023, although was actively looking for employment. The Respondent had no source of income and they were not currently on benefits.
26. The Property was mortgaged. The Applicant is paying for the mortgage with personal income as a result of the failure to meet rental obligations.

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.

Craig Chisholm

11.09.26

Legal Member/Chair

Date

