

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)**

Chamber Ref: FTS/HPC/CV/25/4966

Re: Property at 2/1, 43 Quarry Street, Hamilton, ML3 7AH (“the Property”)

Parties:

Fallside Properties Ltd, 1 Campbell Lane, Hamilton, ML3 6DB (“the Applicant”)

Mr Sean McNiven, 2/1, 43 Quarry Street, Hamilton, ML3 7AH (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

BACKGROUND

1. By lease dated 23rd November 2021 the Applicant let the Property to the Respondent.
2. The start date of the tenancy was 23rd November 2021.
3. Rent was initially payable at the rate of £595.00 per calendar month. Rent was increased to the sum of £666.00 per calendar month during the currency of the lease.
4. The Respondent has been in arrears of rent consistently since October 2023.
5. The Respondent made a payment of £720.00 on 19th September 2024. Following that payment being made arrears of rent amounted to £1,481.00. Thereafter, no further payments have been made by the Respondent to the Applicant in relation to rent.
6. A Notice to Leave dated 12th August 2025 was served on the Respondent. As at that date arrears of rent amounted to £8,807.00.

7. On 17th November 2025 the Applicant presented two applications to the Tribunal, one seeking an order for eviction (EV/25/4961) and one seeking a payment order in relation to arrears of rent (CV/25/4966).
8. As at the date of the application to the Tribunal, arrears of rent amounted to £10,805.00.
9. Letters had been forwarded to the Respondent in compliance with the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020
10. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.

THE CASE MANAGEMENT DISCUSSION

11. The Applicant was represented at the Case Management Discussion by Miss Donna Dick of Property Angels, Bothwell. The Respondent did not participate in the Case Management Discussion. The Tribunal, however, was in receipt of a certificate of intimation by Sheriff Officers confirming that the proceedings had been intimated upon the Respondent. In the circumstances, the Tribunal was satisfied in terms of Rule 24 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the FTT Regs") that the Respondent had received intimation of the date and time of the Case Management Discussion and considered that it was appropriate to proceed with the Case Management Discussion in the absence of the Respondent in accordance with Rule 29 of the FTT regs.

Eviction Order

12. Miss Dick moved the Tribunal to grant an order for eviction. She advised that, since the application was presented to the Tribunal, no further payments have been received from the Respondent. As at the date of the Case Management Discussion, arrears of rent amounted to £14,846.00.
13. In relation to the Respondent's personal circumstances, in so far as is known to the Applicant, the Respondent is approximately 35-40 years of age, and he resides at the Property himself. It is understood he is in employment. There are no known medical conditions affecting him and the Property has not been adapted in any way for his use.

14. No information has been provided to the Applicant nor their representatives as to why rent has not been paid. The Applicant's representative has, on occasions, managed to speak to the Respondent. On any occasion they have spoken to him he has provided various explanations as to why he has not made payment of rent and always gave an assurance that he would again make payment of rent, but he has never done so.

15. Having regard to:-

- The level of arrears of rent, being equivalent to more than 22 months rental payments
- The fact arrears have existed since October 2023, being over 30 months
- The lack of engagement by the Respondent with the Applicant
- The lack of opposition by the Respondent

the Tribunal considered it reasonable to grant an order for eviction.

Payment Order

16. In relation to the payment order sought, the application for a payment order requested a payment order in the sum of £10,805.00, that being the amount outstanding as at the date of the application to the Tribunal.

17. Despite the higher amount now due, Miss Dick did not seek to vary the amount sought.

18. In the absence of any opposition to the application by the Respondent, the Tribunal granted an order for payment in that amount.

FINDINGS IN FACT

19. The Tribunal found the following facts to be established:-

- a) By lease dated 23rd November 2021 the Applicant let the Property to the Respondent.
- b) The start date of the tenancy was 23rd November 2021.
- c) Rent was initially payable at the rate of £595.00 per calendar month. Rent was increased to the sum of £666.00 per calendar month during the currency of the lease.
- d) The Respondent has been in arrears of rent consistently since October 2023.

- e) As of 19th September 2024 arrears of rent amounted to £1,481.00. No further payments have been made by the Respondent since September 2024.
- f) A Notice to Leave dated 12th August 2025 was served on the Respondent.
- g) As of 12th August 2025 arrears of rent amounted to £8,807.00.
- h) As of 17th November 2025, the date of the application to the Tribunal, arrears of rent amounted to £10,805.00.
- a) As of 22nd May 2026, being the date of the case management discussion, rent arrears amounted to £14, 846.00.
- b) A sum of not less than £10,805.00 is due, resting and owing by the Respondent to the Applicant.

DECISION

The Tribunal granted an order against the Respondent for payment of the sum of TEN THOUSAND EIGHT HUNDRED AND FIVE POUNDS (£10,805.00) STERLING to 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.

V Crawford

Legal Member/Chair

Date: 22nd May 2026