



**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/26/1385

Re: Property at 3a Lismore Terrace, Dundee, DD4 9SE (“the Property”)

Parties:

**Home Group Limited, Pavilion 6, Parkway Court, 321 Springhill Parkway,
Glasgow, Ballieston, G69 6GA (“the Applicant”)**

**Miss Sammi Murphy, 3a Lismore Terrace, Dundee, DD4 9SE (“the
Respondent”)**

Tribunal Members:

Ms H Forbes (Legal Member) and Ms E Williams (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 representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 1st April 2022 at a monthly rent of £661.34, a notice to leave with evidence of service, a section 11 notice with evidence of service, pre-action correspondence, tenancy notes, and a rent statement.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by personal service by Sheriff Officer on 11th August 2026.
3. By email dated 8th September 2026, the Applicant representative lodged an updated rent statement showing arrears in the sum of £4538.71.

The Case Management Discussion

4. A Case Management Discussion ("CMD") took place by telephone conference on 23rd September 2026. The Applicant was represented by Ms Fitzgerald, Solicitor. Ms Pawlik, Housing Manager, was also in attendance on behalf of the Applicant. 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.
5. 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.
6. Responding to the Tribunal, Ms Pawlik said she had a telephone call with the Respondent in August 2026 to inform the Respondent of the CMD. Ms Pawlik said she had to hide her caller details, or the Respondent would not take the call. Ms Pawlik passed all the papers to the Respondent, who does not always open her emails or mail. The Respondent did not indicate if she was intending to participate in the CMD, but asked when she would get the eviction order. The Respondent said she had been advised not to leave the Property voluntarily, and that she would be provided with local authority housing if she had an eviction order.
7. Ms Fitzgerald asked the Tribunal to grant an eviction order. Ground 12 is met as evidenced by the rent statement. The Respondent is a single parent with two children aged 9 and 12. The Respondent was employed part time. She is thought to have lost her employment around August 2026. Ms Fitzgerald referred to issues affecting the Respondent as set out in the case papers. The Respondent is in receipt of Universal Credit and Discretionary Housing Payment, which cover the rent, leaving a shortfall each month of £8. The Respondent agreed to pay £20 monthly towards the arrears, but the direct debit has failed repeatedly and no sum is currently being paid towards arrears.
8. Responding to the Tribunal as to why there was no Universal Credit payment for August 2026, Ms Pawlik said it is the Applicant's understanding that, because the Respondent's employment situation has changed, she has had to make a new claim for benefits. Ms Pawlik said the Applicant is aware that a payment of the housing element of Universal Credit was made directly to the Respondent in August 2026, but the Respondent has not paid it to the Applicant. Attempts to restart direct payments have been unsuccessful.
9. Ms Pawlik said a notice to leave had been served previously, but no action was taken after a lump sum of £2000 was paid by the Respondent towards the arrears. Ms Pawlik said the Applicant has tried really hard to work with the Respondent, but the situation seems to have reached a point where the

Respondent may have given up completely on the tenancy. The Respondent has been assisted by the Applicant's financial inclusion partner in the past, but she has rejected that assistance. Ms Pawlik has visited the Respondent on two occasions. There were no concerns about the Property, but there were concerns about the Respondent's wellbeing. The Respondent has said she is getting medical and family support.

10. Responding to the Tribunal, Ms Fitzgerald said the Applicant requires to have tenants who pay their rent. The Applicant is a mid-market provider. They require payment of rent and arrears to maintain their properties. If deprived of that income, the business suffers. Ms Fitzgerald said the arrears have not accumulated as a result of the £8 shortfall, but because of sustained periods of non-payment of rent. Despite lump sum payments, arrears have accrued again. It is likely that pattern will continue if no order is granted. Ms Fitzgerald submitted that it would be reasonable to grant the eviction order.

Findings in Fact and Law

11.

- (i) A joint tenancy was entered into between the parties and a third party on or around 25th February 2015.
- (ii) Parties entered into a private residential tenancy agreement which commenced on 1st April 2022 at a monthly rent of £661.34. The rent has increased annually.
- (iii) The Applicant has served a Notice to Leave upon the Respondent.
- (iv) The Respondent has accrued rent arrears.
- (v) The Respondent has been in rent arrears for three or more consecutive months.
- (vi) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
- (vii) The Applicant has complied with the pre-action protocol.
- (viii) It is reasonable to grant an eviction order.

Reasons for Decision

12. 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.

13. 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.
14. 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.
15. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
16. The Respondent has accrued significant rent arrears. There have been sustained periods of non-payment of rent since March 2025, and there is an ongoing shortfall in the rent paid. No Universal Credit payment towards rent has been paid since July 2026. The payment plan entered into by the Respondent has failed. The Respondent is not engaging or making any attempt to pay the shortfall in rent or address the arrears. The Respondent has failed to address the arrears over a lengthy period despite the considerable efforts of the Applicant.
17. 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 representatives, including the fact that the Respondent has suffered from significant recent issues. The Tribunal took into account that there are two young children in the Property who may be affected by the granting of an eviction order. The Tribunal was unable to fully assess the likely effect of an eviction order upon the Respondent and her children in the absence of any representations.
18. The Tribunal noted that the Respondent is said to have received a housing payment from Universal Credit in August 2026, and that she had not paid that to the Applicant. This suggests that the Respondent did not wish to protect the tenancy by making payment. The Tribunal considered it likely that, if no order was granted, the arrears would continue to rise. That rise will be significant if the Respondent has chosen not to make payment of the housing element of her benefits to the Applicant. The Tribunal considered the tenancy is not sustainable. The Tribunal considered the local authority will have a duty to assist the Respondent and her family if an eviction order is granted and they are deemed to be homeless.

19. The Applicant is entitled to expect rental payments from its tenants. Non-payment affects the Applicant's ability to maintain its stock and support its tenants.

20. 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

21. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 4th November 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.

H Forbes

Legal Member/Chair

23rd September 2026
Date