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 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber reference number: FTS/HPC/EV/26/1231

Re: Property at 130 Cadzow Street, Hamilton, ML3 6HP ("the Property")

Parties:

Nevis Properties Limited, 6th Floor, Gordon Chambers, 90 Mitchell Street, Glasgow ("the Applicant")

Mr Muhammad Fazal Jawad, Lisa Shearer, 130 Cadzow Street, Hamilton, ML3 6HP; 130 Cadzow Street, Hamilton, ML3 6HP ("the Respondent")

Tribunal Members:

Hilary Macandrew (Legal Member) and Robert Buchan (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 be granted.

1) Background

1.1 By Application dated 17th March 2026 the Applicant sought an order under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 29th May 2026.

1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondents by sheriff officers on 18th August 2026.

1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-

- Private Rental Tenancy agreement
- Notice to Leave ('NTL') and proof of service
- Pre Action Requirements Correspondence
- Section 11 Notice
- Statement of Rent Arrears
- Third Party correspondence regarding Respondent's conduct

1.5 A Case Management Discussion was set to take place on 19th October 2026. Intimation was given to both Respondents at the property by Sheriff Officers on 18th August 2026

2) The Case Management Discussion

2.1 The CMD took place by tele conference on 19th October 2026. The Applicant did not take part. They were represented by Mr David Gibb of Dwello Properties, Letting Agents. The Tribunal delayed starting for five minutes for the Respondent to take part. The Respondent was neither present nor represented.

2.2 The Applicant sought the Eviction Order based on Ground 12 of Schedule 3 of the Act.

2.3 Mr Gibb asked the Tribunal to grant the Eviction Order. The Private Rental Tenancy started on 22nd December 2022. The monthly rent agreed was £595 rising to £695 per month. The Respondents fell into arrears on 1st November 2025, and the arrears have continuously accrued since then. When the Application was submitted the arrears stood at £3475.00. At the time of the CMD the arrears according to Mr Gibb stood at £7645. The current rent is not being paid at all.

2.4 Mr Gibb advised the Tribunal that the arrears are significant, and the Applicant is suffering from a loss of income to apply towards maintenance and upkeep of their properties

2.5 Mr Gibb advised the Tribunal that It is believed the Respondent Ms Shearer vacated the property following a relationship breakdown. The Respondent Mr Jawad continued to reside in the property but then stopped paying rent. Recently, the keys were returned and the property was abandoned. The locks have been changed but a formal eviction on a "belt and braces" approach is sought. There is no information on the Respondent Mr Jawad who has not engaged with the applicant or the agent. Pre action correspondence demonstrates that the Applicant's agents notified the Respondents regularly of the arrears, gave the Respondents an opportunity to engage regarding a payment plan and provided information of various housing support agencies. The property is a flat. There were no dependent children living in the property. There was no information to indicate there was an issue with housing or any other benefits being paid. There is no indication that either Respondent would have been unable to communicate with the Applicant's agents.

2.6 The rent statement demonstrated that the Respondents have been in arrears of rent by an amount equal to or greater than the equivalent of one month's rent under the tenancy and had been in arrears for more than three or more consecutive months.

2.7 Rule 17 of the First-Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 provides that the Tribunal may do anything at a CMB which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a hearing.

3) Findings in Fact and Law

3.1 The Tenancy agreement is a Private Rental Tenancy Agreement which commenced on 22nd December 2022.

3.2 On 2nd February 2026 the Applicant served Notice to Leave on the Respondents under Ground 12 of Schedule 3 to the Act. The Notice to Leave became effective from 3rd March 2026. The Notice was correctly drafted and provided sufficient Notice.

3.3 The Respondents have been in arrears of rent by an amount equal to or greater than the equivalent of one month's rent under the tenancy and has been in arrears for more than three or more consecutive months.

3.4 The basis for the Order for possession was accordingly established.

4) Issue For the Tribunal

4.1 The issue for the Tribunal is to determine whether it is reasonable to grant the Order.

4.2 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah 1943 SC 245* whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the Application was made.

4.3 The Tribunal found that the Applicant is entitled to recovery of the property. The Tribunal had regard to the significant level of rent arrears. The Respondent has not engaged with the Applicant nor with the Tribunal process. The Applicant has tried to engage with the Respondents by correspondence. The Tribunal places weight on the significant arrears and the circumstances of the Applicants.

4.4 Accordingly, the Tribunal was satisfied that it is reasonable to grant an order for eviction.

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.

Legal Member/Chair **Date: 19th October 2026**