



**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 Act”)**

**Chamber Ref: FTS/HPC/EV/24/3570**

**Re: Property at 3/1 78 Barrland Street, Glasgow, G41 1RA (“the Property”)**

**Parties:**

**Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)**

**Mr Kenneth Wright, 3/1 78 Barrland Street, Glasgow, G41 1RA (“the Respondent”)**

**Tribunal Members:**

**James Bauld (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision (in absence of the Respondent)**

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

**Background**

1. By application dated 5 August 2024, the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. On 26 August 2024 the application was accepted by the tribunal and referred for determination by the tribunal.
2. A Case Management Discussion (CMD) was held on 14 March 2025. After the CMD, the tribunal issued a Note and a Direction requiring both parties to lodge certain documents and additional information. The applicant complied with the Direction. The respondent did not. Reference is made to the terms of the Note and Direction.

3. A hearing was set to take place on 23 September 2025 and appropriate intimation of that hearing was given to both the landlord and the tenant.

### **The Case Management Discussion**

4. The hearing took place on 23 September 2025 via Webex video conference. The applicant was represented by their solicitor, MR Dvid Adamcs. The Respondent did not attend.
5. The tribunal asked various questions of the applicant's representative with regard to the application and the grounds for eviction contained within it.
6. The applicant's representative confirmed that he wished the order sought to be granted.

### **Findings in Fact**

7. The Applicant and the Respondent as respectively the landlord and tenant entered into a tenancy of the property which commenced on 22 May 2018.
8. The tenancy was a private residential tenancy in terms of the Act.
9. The initial agreed monthly rental was £600.
10. The current monthly rental since 1 August 2025 is £794.98.
11. On 24 January 2024 the applicant served upon the tenant a Notice to Leave as required by the Act. The Notice became effective on 25 February 2024.
12. The notice informed the tenants that the landlord wished to seek recovery of possession using the provisions of the Act.
13. The notice was correctly drafted and gave appropriate periods of notice as required by law.
14. The notice set out a ground contained within schedule 3 of the Act, namely ground 12 that the tenant had been in arrears of rent for three or more consecutive months.
15. Arrears had started to accrue from April 2023 and at the date of service of the Notice to Leave amounted to £4453.

16. At the date of the lodging of the application arrears amounted to £10,197.30
17. At the date of the CMD the arrears amounted to £15,302.68
18. At the date of the hearing CMD the arrears amounted to £19,810
19. The tenants had been continuously in arrears from April 2023 July 2020 until the date of the hearing.
20. The basis for the order for possession was accordingly established.

### **Reasons for decision**

21. The order for possession was sought by the landlord on a ground specified in the Act and properly narrated in the notice served upon the tenant.
22. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground.
23. The tribunal accepted the unchallenged evidence presented on behalf of the landlord with regard to the rent arrears. A rent statement was produced which set out the history of the arrears. The history of previous applications was also narrated at the CMD.
24. The ground for eviction under which this application was made is the ground contained in paragraph 12 of schedule 3 of the Act. The ground is that the tenant has been in arrears of rent for three or more consecutive months. When the 2016 Act was originally passed, that ground of eviction was mandatory, if the tenant was in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on the day of the hearing.. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.
25. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact
26. 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
27. In this case the tribunal finds that it is reasonable to grant the order.
28. The level of arrears is extremely high, and it is unlikely that the arrears will ever be repaid. There is no suggestion that the tenant is making any attempt to meet the rent. The landlord's representative indicates that he believes the tenant is working. At the CMD the respondent had told the tribunal he earned £65,000

per annum. The applicant's solicitor explained that since the date of the CMD the respondent had emailed the applicant on a number of occasions. On 30 April 2025 the respondent sent an email to indicate he wished to give notice to end the tenancy and indicated he was moving to Valencia.. On 28 May 2025 he sent a further email asking for an extension of his notice period until 2 June 2025. At that time he made a payment arrangement to pay £750 per month to the rent arrears on the basis that he would no longer be liable for ongoing rent.

29. On 30 June 2025 the respondent sent a further email to the applicants indicating that he was still intended to leave the property but could not provide a date and stated that they should simply proceed with the eviction application
30. The applicant's solicitor described the level of arrears as "astronomical" and noted that the respondent's payments since June have all failed to clear despite having been remitted by apparent standing order.
31. The landlord has complied with the matters set out in the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. Appropriate information was provided to the tenant. A repayment plan was agreed in June 2021 but the tenant failed to maintain it.
32. No explanation has been provided by the tenant regarding the arrears. The respondent has lodged no written representations with the tribunal despite being offered the opportunity to do so nor has the respondent complied with the Direction issued after the CMD requiring him to provide information regarding his alleged health issues, his employment status and his entitlement to benefits.
33. The tribunal was satisfied that the tenant had been in arrears for a period far in excess of three consecutive months. The ground for eviction was accordingly established and the tribunal found that it was reasonable in terms of the provisions of the 2016 Act to grant the order sought.

## 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.

# J Bauld

Jim Bauld

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Legal Member/Chair

23 September 2025

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Date