



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

Chamber Ref: FTS/HPC/EV/25/1096

Re: Property at Flat 0/2, 104 Cumming Drive, Glasgow, G42 9BW (“the Property”)

Parties:

Garnet Terrace Property Company, 103 Douglas Street, Glasgow, G2 4HA (“the Applicants”)

Mr Desmond Heafey, Flat 0/2, 104 Cumming Drive, Glasgow, G42 9BW (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

1. By application, dated 11 March 2025, the Applicants sought an Eviction Order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Schedule 3 to the 2016 Act, namely that the Respondent has been in rent arrears for three or more consecutive months.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 1 April 2023 at a monthly rent of £550, a Notice to Leave, dated 16 January 2025, advising the Respondent that the Applicants were seeking an Eviction Order under Ground 12 of Schedule 3 to the 2016 Act and that an application to the Tribunal would not be made before 16 February 2025, a pre-action protocol letter dated 26 November 2024, signposting the Respondent to sources of possible help and advice, and a Rent Statement showing arrears of £6,235 as at 1 February 2025. No payment had been made since 9 July 2024.

3. On 24 September 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 15 October 2025. The Respondent did not make any written representations to the Tribunal within that time limit, but on 31 October 2025, Govan Law Centre made written submissions on his behalf.
4. The Respondents' representatives contended that it would not be reasonable to issue an Eviction Order. He had been resident in the Property for about 5 years prior to the Tenancy Agreement, the previous lease having been in the name of his partner. His partner died on 27 January 2023, and the present Tenancy Agreement was then put in place. The Respondent did not dispute the balance sought is due. He is a 58-year-old single person living alone. Following the death of his long-term partner he struggled to cope and experienced a significant decline in his mental health. His partner had taken responsibility for managing household finances and after she died, he found himself unable to cope with both his grief and the practical challenges of managing his finances. In an attempt to cope with his loss, he turned to alcohol and gambling as a coping mechanism, which had a detrimental effect on both his mental health and his financial situation. He avoided addressing his financial situation, effectively burying his head in the sand. He has experienced depression and suicidal thoughts.
5. The Respondent had recognised that he could not continue this way and has recently taken proactive steps to address the situation and has sought legal, financial and medical help. His GP prescribed anti-depressants and the Respondent understands that the GP is continuing to explore further treatment options for the Respondent's mental health and dependencies. The Respondent has also engaged with a Community Link Worker and with an online Alcoholics Anonymous programme.
6. Despite all this, the Respondent has managed to maintain full-time employment, and he has also submitted an application for Universal Credit. He is actively taking steps to rebuild stability in his life, address his dependencies and resolve his financial issues and, once his affordability assessment is completed, he will be in a position to begin making payments towards both his arrears and his ongoing rent.
7. The Respondent's representatives added that, given the current housing crisis, it is likely that the Respondent will be placed in emergency accommodation if an Eviction Order is issued and this would be detrimental to his mental health and his progress. They submitted that it would not be reasonable to issue an Eviction Order at this time and it would be reasonable for the Tribunal to continue the case to a Hearing to allow him sufficient time to demonstrate progress in addressing his personal and financial circumstances. He is committed to turning his situation around.
8. The Respondent's representatives also submitted a letter of 23 October 2025 from Bridgeton Citizens Advice Bureau, who stated that he attended their

office in July 2024 for assistance with his financial situation, specifically difficulties with paying his rent. He was continuing to struggle with the death of his long-term partner, and his situation had become chaotic when he could not deal with household finances, as his late partner normally took control of this. After a period of instability, they were asked to re-engage with the Respondent and are currently in the process of helping him with his debts. It is only now that he is able to come to terms with his financial situation. It is to his credit that he has continued to remain employed, which will help him to address and eventually resolve his financial situation. He is extremely motivated now that he has clarity on his financial situation and has expressed his gratitude to the Applicants for their patience and understanding during this turbulent period in his life, which has given him extra motivation to maintain his tenancy and to repay the arrears.

9. On 28 October 2025, the Applicants' solicitors submitted an updated Rent Statement showing arrears at 24 October 2025 of £11,270, with nothing having been paid since the date of the application.

Case Management Discussion

10. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 5 November 2025. The Applicants were represented by Ms Olivia Robertson of Levy & McRae Solicitors LLP, Glasgow. The Respondent was represented by Ms Lyndsey McBride, trainee solicitor with Govan Law Centre.
11. Ms Robertson told the Tribunal that her clients had had an opportunity to consider the representations made on behalf of the Respondent and had great sympathy with his position, but that her instructions remained to ask the Tribunal to issue an Eviction Order. It was clear that the tenancy was not affordable for the Respondent and delaying matters would simply exacerbate the problem. The arrears now stand at £11,940 as the Respondent has missed the rent payment due on 1 November 2025. She pointed out that, despite first seeking help from Citizens Advice in July 2024, the Respondent had paid nothing at all since then. It seemed implausible that he would be able to pay the rent and clear the arrears, which were now so high that the only reasonable outcome would be for the Tribunal to issue an Eviction Order.
12. The Respondent's representative, Ms McBride, referred to her written submissions and added that, if an Eviction Order is issued against him, the Respondent will have no alternative but to present himself as homeless. The likelihood is that he will be placed in temporary accommodation, which is very expensive and, as he is working full-time, he will be required to pay part or perhaps all of the cost, which will make his situation even worse. He has multiple debts. Those advising him have recommended that he pay something towards the rent, but he is struggling. Ms McBride asked the Tribunal to continue the case, to allow the Respondent time to demonstrate that he is making progress towards stability in his life and in his finances. His average earnings are £1,400-£1,500 per month.

13. Parties' representatives confirmed that they were content for the Tribunal to decide the application on the basis of the written submissions and statements made at the Case Management Discussion and that they did not regard it as necessary to hold a full evidential Hearing.

Reasons for Decision

14. 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 Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
15. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 applies.
16. Ground 12 of Schedule 3 to the Act states that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal may find that Ground 12 applies if, for three or more consecutive months, the tenant has been in arrears of rent and the Tribunal is satisfied that it is reasonable on account of that fact to issue an Eviction Order. 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 the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers.
17. The Tribunal was satisfied that the requirements of Ground 12 had been met and the only question for the Tribunal was whether it would be reasonable to issue an Eviction Order.
18. The Tribunal noted the representations made on behalf of the Respondent that he is facing up to his responsibilities and is seeking medical, legal and financial help, but the rent arrears are very high and longstanding. They are increasing by £670 every month and he has paid nothing at all since July 2024. He had been advised to pay something in advance of proceedings but had not done so, and, given the level of his earnings, the Tribunal did not regard it as plausible that he would be able to start to pay his monthly rent and manage to clear the arrears within any time frame that would be regarded as reasonable. If, for example, he paid an additional £200 per month, it would still take him 5 years to pay off the arrears, and he has paid nothing at all in the last 16 months. The view of the Tribunal was that there was no clear indication that delaying a Decision by continuing the case for a few months would produce a situation which the Applicants could reasonably be expected to accept as an alternative to an Eviction Order.

19. Having considered all the evidence before it, the Tribunal decided that it would be reasonable to issue an Eviction Order. The Tribunal recognised that in the normal course of events, this would result in the Respondent being evicted very shortly before the Christmas and New Year holiday period, when local authority staffing resources are likely to be limited, so decided that the Order should not be enforceable before 23 January 2026, to enable the Respondent to access the support services that he may need.

20. The Tribunal's Decision was unanimous.

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.

G.Clark

Legal Member/Chair

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5 November 2025
Date