



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/25/0634

Re: Property at 17D Princes Street, Dundee, DD4 6BY (“the Property”)

Parties:

Mr Kassam Kassam, 42 Strachan Avenue, Broughty Ferry, Dundee, DD5 1RF (“the Applicant”)

Mr Marin Babaci, 17D Princes Street, Dundee, DD4 6BY (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Gerard Darroch (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016; but postpones enforcement until 5 January 2026.

Background

1. An application had been received under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.
2. The application contained: -

- a. the tenancy agreement,
 - b. The notice to leave with evidence of service
 - c. Section 11 Notice with evidence of service
 - d. rent statement
 - e. pre-action requirement letter
 - f. rent increase notice
3. A case management discussion took place on 28 October 2025. In attendance were the applicant's agent, Mr Myles from J Myles and Co Solicitors and the Applicant. The respondent, his wife, Mrs Babaci and their supporter, Ms Adela Stan, Rights Adviser with the Citizens Rights Project. Ms Stan assisted the respondent by interpreting what was being said. The respondent was Romanian and did not speak English.

Discussion

4. The applicant's agent advised that the applicant was seeking an order of eviction. The tenancy commenced on 30 May 2023. Rent was first £370, increasing to £420 in May 2024. The arrears commenced in August 2023. Since then, the respondent had only made three payments towards the rent. The notice to leave was served in November 2024, and the arrears were £5,320 at that time; when the application was made in February 2025, the arrears were £6,490. The current arrears were £9,850. The applicant had not heard anything from the respondent about payment to rent or the arrears, why he was not paying the rent or offering a solution to the rent arrears. They had attempted to contact the benefits agency, but they would not provide any information to them. The applicant was 29 years old, and the non-payment of rent was having a financially detrimental effect on him.
5. The respondent advised that they did not oppose the order being granted, although they asked for 60 days in which to find somewhere to move to, rather than 30 days. They advised that they wanted to try and obtain social housing that was more suitable for their needs. They said that they had paid rent, but had paid in cash, and they had no evidence that they had paid. They had paid it in cash. They advised they had problems with the property and did not have

a working central heating system. They said there were rats in the property. They said that they were disabled and had health issues.

6. The respondent's supporter advised that the respondent was 67 and his wife was 62. The respondent suffered from Type 2 diabetes; vision loss, hearing loss, mental loss, high blood pressure, cholesterol, and limited mobility. His wife lived with him, and she had COPD, mobility issues, and high blood pressure. There was no other person living in the property with them.
7. The respondent's supporter advised that the respondent had approached the council, and they were on the regular waiting list. She intended to go with the respondent and his wife to the housing department and advise them that they had now been evicted. She advised that, as they do not speak English, she will interpret for them to ensure that their full details are provided to the council.
8. The respondent's supporter advised that the respondent was in receipt of universal credit until October 2023 it had ended at that time. His immigration status had not been settled, and he had not been entitled to any other benefit. He is now getting disability benefits. There were no outstanding benefit issues that had caused the delay in payment of rent.
9. The applicant's agent advised that the applicant agreed to provide 60 days before the order was enforced.

Findings in Fact

10. The Tribunal found the following facts established: -
11. There existed a private residential tenancy.
12. It had commenced on 30 May 2023.
13. The tenant was Marin Babaci.
14. The landlord was Kassam Kassam.
15. The property was 17D Princes Street, Dundee.
16. The tenancy stated that rent was £370 a calendar month payable in advance.
The rent had increased to £420 in May 2024.
17. There were rent arrears on the rent account since at least August 2023.
18. Rent arrears as of November 2024 were £5,320.
19. Rent arrears as of February 2025 were £6,490.

20. Rent arrears as of October 2025 were £9,850.
21. There was submitted a notice to leave dated 28 November 2024, stating that an application would not be made until 8 January 2025. It sought eviction under ground 12 rent arrears. It set out that the respondent had been in arrears. It attached a rent statement showing the arrears. There was evidence of service of the notice.
22. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service.
23. There was evidence that the pre-action protocol requirements had been followed.
24. There was no evidence of failure or delay in any benefit payment to the respondent.
25. The respondent had failed to pay part of the monthly rent since August 2023. The arrears had been significantly accrued since that date.
26. The respondent did not oppose the order being granted.

Reasons for Decision

27. Section 51 of the 2016 Act provides the Tribunal with the power to grant an order for eviction for a private residential tenancy if it finds that one of the grounds in Schedule 3 of the Act applies.
28. The ground which the Applicant seeks eviction under is ground 12. It is in the following terms :-
- 12 Rent arrears
- (1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
- (2) [...]
- (3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

(a) for three or more consecutive months the tenant has been in arrears of rent, and

(b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.

(4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider [—] 3 [

(a) 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

(b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.] 3

(5) For the purposes of this paragraph— ...

40. The applicant confirmed that he sought an order for eviction based on the fact that the respondent had been in rent arrears for three or more consecutive months. When the notice to leave was served in November 2024 the respondent had been in rent arrears for well over three months. The rent statement showed that there had been rent arrears on the rent account since August 2023. The rent arrears are now over £9,000.00. We were advised that there were no benefit issues which were causing the arrears. It appeared that the first part of the ground 12 was met.

41. Given that the first part of the ground is met, the tribunal is therefore required to proceed to consider whether it would be reasonable to grant the order.

42. We find it would be reasonable to grant the order for eviction; in coming to this conclusion, we took into account the following matters:-

43. Matters in support of granting the order were as follows:- The respondents did not oppose the order being granted. The arrears were now in excess of £9,000; they were significant. Arrears had been accruing since August 2023. The respondent's last payment was 21 September 2024. The applicant agreed not to enforce the order for a total period of 60 days, which had been requested by the respondent.

44. The impact of refusing the order would be detrimental to the applicant; he was 29, and the failure to pay rent was causing him financial detriment.

45. Matters against the order being granted were that the Respondent advised that they had paid rent, although they had no evidence that they had made any payments, and the supporter's advice that there was a period when the respondent had no money and was relying on food handouts from a local church which would suggest that he would not have been able to pay rent.
46. In balancing up the various factors before us, we are content to grant the order for eviction we place considerable weight on the fact that the respondent does not oppose the order being granted, he has been provided with extra time before the order can be enforced, they have support from a rights worker who will assist them in seeking social housing; and the arrears are of a significant value.
47. Accordingly, considering the papers before us and the oral submission by both parties, the tribunal was prepared to grant the order for recovery of possession, given that the first part of ground 12 was met, and in all the circumstances it appeared to us to be reasonable to grant the order, but we shall order that it will not be enforced for 60 days.

Decision

48. The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016; but postpones enforcement until 5 January 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.

Melanie Barbour

28 October 2025

Legal Member/Chair

Date