



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/1405

Property at 10 Commercial Road, Strathaven, ML10 6LX (“the Property”)

Parties:

Mr Douglas MacMillan, Mrs Agnes MacMillan, Clydesbank, St. Patricks Road, Lanark, ML11 9EH (“the Applicants”)

Samantha Bowman, 10 Commercial Road, Strathaven, ML10 6LX (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Sandra Brydon (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 against the Respondent in favour of the Applicant.

Background

- 1.** The Applicant seeks an eviction order in terms of Section 51 and ground 12 of Schedule 3 of the 2016 Act. A tenancy agreement, Notice to Leave, Section 11 notice and rent statement were submitted with the application.
- 2.** A copy of the application was served on the Respondent, and both parties were notified that a case management discussion (“CMD”) would take place on 22 October 2025 at 2pm. Prior to the CMD, the Respondent requested a postponement for personal reasons as she had recently suffered a bereavement. This was refused on the grounds that the CMD was taking place by telephone conference call, and the Respondent had not provided any information or evidence that she would not be able to participate.
- 3.** The CMD took place on 22 October 2025. The Applicant was represented by Mrs Gallagher. The Respondent participated.

4. Mrs Gallagher told the Tribunal that at the time that the application was lodged, universal credit payments were being received by the Applicant of £575 per month. The Respondent had agreed to meet the shortfall of £20 and to pay an additional £100 per month to the arrears. The payments were received in April 2025. In May 2025, only the universal credit payment was received. In June and July no payments were received from Universal Credit or the Respondent. A new application to the DWP was made but declined. The Respondent advised her at the end of July that she had been in touch with UC and that the direct payments were back in place. However, no payments were received and a caseworker advised Mrs Gallagher on 8 September that the payments for June to September had been made to the Respondent. On 10 October 2025, the Applicant received a payment from UC which covered the rent charge and £20 to the arrears. It therefore appears that the direct payments had been reinstated, but the Applicant was concerned that the Respondent would terminate this arrangement, as she did before, and fail to pass on the housing costs received from UC. The Tribunal was advised that the arrears had increased to £4539.
5. Ms Bowman told the Tribunal that the application was opposed. She said that she had been unable to deal with the application and prepare for the CMD due to recent events in her personal life. She said that her sons were attacked by a group of men a month ago. One of her sons was killed and the other seriously injured. He was still in a serious condition in hospital. Ms Bowman confirmed that the information provided by Mrs Gallagher about the arrears was accurate. She stated that she suffers from agoraphobia and didn't like to be on her own in the property due to problems with neighbours. Her daughter was staying with her but had a job and was out of the house for long periods. Her other daughter was coming to sit with her, but Ms Bowman had to pay for the daughter's taxi from Glasgow. She could not use public transport as her child has a medical condition. She found it difficult to find the money for the taxi and used her rent money.
6. Following a short adjournment, the Legal Member advised the parties that the application would proceed to an evidential hearing. The only issue to be determined at the hearing is whether, in all the circumstances, it would be reasonable to grant the eviction order. The Tribunal suggested that the Respondent consider getting legal advice or consulting a housing advisory service in relation to the application, her housing situation and her benefits. The Tribunal also indicated that she should ensure that her rent payments from UC continue to be paid direct to the Applicant between the date of the CMD and the date of the hearing.
7. Following the CMD, the Tribunal issued a direction in relation to the provision of documents prior to the Hearing. The parties were notified that a hearing would take place at Brandon Gate, Leechlee Road, Hamilton on 31 March 2026 at 10am. Prior to the Hearing, the Applicant lodged an updated rent statement. The Respondent did not submit any documents and did not contact the Tribunal prior to the Hearing.

8. The Hearing took place on 31 March 2026. The Applicant was represented by Mrs Gallagher. The Respondent did not attend and was not represented.

The Hearing

9. Mrs Gallagher told the Tribunal that the resident of a nearby property had contacted her agency last week to say that the Respondent had vacated the property and there were bags of rubbish outside. Mrs Gallagher visited the property to check. She confirmed that the property appears to be unoccupied. There were no belongings in the living room, although she could see some bags of rubbish. She contacted the Respondent. Her daughter replied yesterday to confirm that they had moved out. Mrs Gallagher said that she required confirmation of this from the Respondent, as she is the tenant. She received an email with one word – “confirmed”. However, the keys have not been returned, and the Applicant still seeks an eviction order in case the Respondent has not fully moved out or removed all belongings. At this stage the Applicant has not recovered possession of the property.
10. In response to questions from the Tribunal, Mrs Gallagher said that they received payments to the rent account between October and December 2025 from Universal Credit. These covered the rent charge and £20 toward the arrears. The payments stopped in December and although they contacted the DWP to find out why, they were not provided with a reason. They arranged for a welfare check by the Police at the end of January, as they could not get in touch with the Respondent. The Police confirmed that she was still in occupation. They also received a letter from Council Tax on 5 January 2026, stating that the liability was being transferred back to the landlord. They rejected this as the tenancy had not been terminated.

Findings in Fact

11. The Applicants are the owners and landlords of the property.
12. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
13. The Respondent is due to pay rent at the rate of £595 per month.
14. The Respondent has been in arrears of rent since November 2024, and no payments have been made to the rent account since December 2025.
15. The Respondent currently owes £6284.87 in unpaid rent.
16. The Applicant served a Notice to leave on the Respondent on 4 February 2025.
17. The Applicant has issued emails in compliance with the rent arrears pre action protocol.

18. The Respondent appears to have moved out of the property although she did not give notice or return the keys.
19. The Applicant has not recovered possession of the property.

Reasons for Decision

20. The application was submitted with a Notice to Leave dated 4 February 2025 together with a copy email to the Respondent which establishes that the Notice was sent to the Respondent on that date. The Notices states that an application to the Tribunal is to be made on ground 12, rent arrears over three consecutive months. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
21. Section 51(1) of the 2016 Act states, “The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”
22. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states “(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in 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.”
23. Sub-Paragraph (4) states, “In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider - (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 Minister in regulations.” Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant’s rights in relation to eviction proceedings and how the tenant can access information and advice.
24. From the documents submitted and the information provided at the CMD and Hearing, the Tribunal is satisfied that the Respondent currently owes £6284.87 in unpaid rent and that she has been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Part 1 of Ground 12 is therefore established.

25. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -

- (a) The Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant submitted copy emails sent to the Respondent in compliance with the protocol.
- (b) There is no available information or evidence to suggest that the arrears are attributable to a delay or failure in the payment of a relevant benefit. At the CMD, the Respondent confirmed that she had used the housing costs element of her UC for other purposes.
- (c) The Respondent did not participate in the Hearing or notify the Tribunal whether the application is still opposed. She also failed to respond to a direction issued by the Tribunal in relation to the provision of evidence.
- (d) The arrears are substantial and are increasing.
- (e) The Respondent appears to have moved out of the property. She did not give notice to the Applicant and has not returned the keys. However, email correspondence appears to establish that she is no longer living there.

26. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act that ground 12 has been established. For the reasons outlined in paragraph 25, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

27. The Tribunal determines that an eviction order should be granted against the Respondent.

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.