

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/26/1159

Re: Property at 29 St Mungos Road, Seafar, Cumbernauld, G67 1BE (“the Property”)

Parties:

Mr Ryan Quinn, 46 Binnie Crescent, Gartcosh, G69 6GH (“the Applicant”)

Miss Kimberley Foster, 29 St Mungos Road, Seafar, Cumbernauld, G67 1BE (“the Respondent”)

Tribunal Members:

Evan Crainie (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 should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

1. By application dated 12 March 2026 (“the Application”), the Applicant sought an Eviction Order against the Respondent under Section 51 of the 2016 Act. The Ground relied on was Ground 12 of Schedule 3 to the Act, namely that the tenant has been in rent arrears for three or more consecutive months.
2. The application was accompanied by copies of:
 - a. Copy Private Residential Tenancy Agreement between the Parties, commencing on 6 September 2024, with a monthly rent of £530;
 - b. Copy Notice to Leave dated 9 February 2026 advising the Respondent that an application to the Tribunal for an eviction order would not be

- made before 12 March 2026 together with proof of sending to the Respondent;
- c. Copy notice under Section 11 of the Homelessness Etc. (Scotland) Act 2003 to North Lanarkshire Council being the relevant local authority; and
 - d. Rent statement showing rent arrears throughout the majority of the tenancy and arrears amounting to £2,120 as at 6 March 2026.
3. On 28 July 2026, the Tribunal advised the Parties of the date and time of a Case Management Discussion ("CMD").

The CMD

4. A CMD was held by means of a telephone conference call on 2 September 2026. The start of the CMD was delayed to allow parties to attend. Neither party initially dialled into the CMD. The clerk phoned the Applicant's representative, Donna Cramb of K Property, and managed to confirm that the notification for the CMD had went to their "junk" email folder. As such the Applicant's representative had been unaware of the CMD. Despite this, the Applicant's representative did join the CMD.
5. The Respondent was not present. The Tribunal confirmed, via certificate of intimation, that the Respondent had received notice of the CMD by way of sheriff officer depositing documentation through the letterbox of the Property. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
6. The Tribunal asked various questions of the Applicant's representative with regard to the Application.
7. The Tribunal explained that a direction had been issued seeking the most up to date rent statement; evidence (if any) showing attempts made to contact the Respondent regarding the arrears prior to service of the Notice to Leave (i.e. emails, letters, text messages etc); and evidence (if any) showing adherence with the Pre-Action Protocol. Given this had went to the Applicant's representative "junk" folder this hadn't been actioned. The Tribunal decided to proceed with the CMD and then make a decision at the end of the CMD as to the next steps regarding the information sought via the direction.
8. The Applicant's representative confirmed that they were still seeking eviction, there is no communication at all from the Respondent. Letters have been hand delivered to the Property, as well as the automated payment system sending out texts etc, when rent is not paid. When conducting drive-by of the Property, it is apparent that the Property is still occupied. The Respondent lives alone and receives benefits. As far as the Applicant's representative was aware, there were no health issues that the Tribunal needed to be aware of.

9. Upon questioning from the Tribunal, the Applicant's representative confirmed that they had sought to have Universal Credit ("UC") paid directly to the Applicant but this had not been successful. The Applicant's representative confirmed that the Property is a two-bedroom flat. Prior to the arrears accruing, payments had regularly been late, but they were largely corrected.
10. The Applicant only rents out this one property, which is mortgaged. Therefore the non-payment of rent is costing him each month. The Applicant has not increased the rent on the Property, and the rent is now well under market value.
11. Following the discussion set out above, the Tribunal explained to the Applicant's representative that it was minded to grant the eviction order but wanted to have sight of the documentation sought in the direction such that it could be satisfied as to the reasonableness of granting any such order. With that being the case, the CMD was adjourned for the documentation to be lodged by the Applicant's representative. Subject to the documentation being lodged and the Tribunal being satisfied with this, the application would be granted. The Applicant's representative was satisfied with this approach.

Post CMD Communications

12. By email dated 2 September 2026, the Applicant's representative lodged the information sought in the direction and this was all in order.

Findings in Fact

13. From the Application and the CMD, the Tribunal made the following findings in fact:
 - a. There is a private residential tenancy of the Property between the Parties;
 - b. The correct statutory procedures have been carried out;
 - c. The Respondent has been in rent arrears throughout the tenancy, being more than three consecutive months; and
 - d. The Respondent lives in the Property alone and receives benefits.

Issue for the Tribunal

14. The issue for the Tribunal was to determine whether or not to grant the Order sought.

15. The Ground on which the Application proceeds is Ground 12 which states:

"(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— (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.”

16. The Tribunal was satisfied that Ground 12 had been met on the basis of the rent statements, written representations and oral submissions of the Applicant’s representative. The Respondent had been continuously in arrears of rent since December 2025 and had been made aware of the consequences of their failure to pay rent.
17. Therefore, the statutory ground and procedure being established, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness and so proceeded to determine the Application.

Decision and Reasons for Decision

18. Rule 17 of the Rules provides that the Tribunal may do anything at a CMD 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.
19. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, the written representations lodged on behalf of the Applicant, and the oral information and submissions provided by the Applicant’s representative at the CMD.
20. The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah 1947 SC 245* whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the Application was made.
21. The Tribunal had regard to the facts that the Respondent had been in arrears since December 2025. The Tribunal’s view is that the level of arrears being £5,300 combined with the length of time which arrears have existed leads to it being untenable for the Respondent to continue as a tenant in the Property. The Tribunal found that the Applicant is entitled to receive payment of rent and that this entitlement outweighs the Respondents’ rights to remain in the Property. Accordingly, the Tribunal was satisfied that it is reasonable to issue an Eviction Order.
22. The Tribunal determined that the application be granted and that an eviction order be made. The decision is 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.

Evan Crainie

09.09.26

Legal Member/Chair

Date