

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with statement of reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”)

Chamber Ref: FTS/HPC/EV/26/2260

Re: 96 Backmuir Road, Hamilton, ML3 0PY (“the Property”)

Parties:

**Mr Joseph Sander, 1 Fernhill Grange, Bothwell, G71 8SH
 (“the Applicant”)**

**Ms Louisa Allan, 96 Backmuir Road, Hamilton, ML3 0PY
 (“the Respondent”)**

Tribunal Members:

Pamela Woodman (Legal Member) and Frances Wood (Ordinary Member)

Present:

The case management discussion took place at 10am on Thursday 1 October 2026 by teleconference call (“**the CMD**”). Neither the Applicant nor the Respondent was present, and neither was represented, at the CMD. The clerk to the Tribunal was Danielle Torbet. This case was conjoined with the case with reference FTS/HPC/CV/26/2261.

DECISION

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismissed the whole proceedings in this case.

BACKGROUND

1. An application had been made to the Tribunal under section 51(1) of the 2016 Act and in terms of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“**HPC Rules**”) which are set out in the schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended. More specifically, the application was made in terms of rule 109 (*Application for an eviction order in relation to a private residential tenancy*) of the HPC Rules.

2. The order sought from the Tribunal was an eviction order against the Respondent in respect of the Property on the basis of ground 12 (rent arrears over three months).
3. The application form was dated 18 May 2026 and copies of various documents were provided, including:
 - a. the private residential tenancy agreement between the Applicant and the Respondent dated 23 February 2021 ("**Tenancy Agreement**").
 - b. a notice to leave dated 14 April 2026 addressed to the Respondent at the Property ("**Notice to Leave**"), which stated that an application would not be submitted to the Tribunal for an eviction order before 18 May 2026 and that the eviction ground was "You are in rent arrears over three consecutive months" (ground 12).
 - c. covering e-mail to the Respondent (using the e-mail address for notices set out in the Tenancy Agreement) dated 14 April 2026 attaching the Notice to Leave.
 - d. a notice under section 11(3) of the Homelessness etc. (Scotland) Act 2003, together with the covering e-mail sending it to the local authority on 18 May 2026.
 - e. e-mail from the Applicant to the Respondent dated 7 April 2026 stating "Your rental arrears are accruing every month and you have taken no actions to address them. There is a total arrears of £1400 now that have accumulated. Please settle these arrears in a timely fashion with a repayment plan of £40 per week."
 - f. rent increase notice dated 12 November 2024 ("First Rent Increase Notice") proposing that the rent be increased from £525 per calendar month to £625 per calendar month from 15 February 2025 (which did not appear to be a rent payment date), together with covering e-mail sending it to the Respondent dated 12 November 2024.
 - g. rent increase notice dated 8 April 2026 ("Second Rent Increase Notice") proposing that the rent be increased from £625 per calendar month to £725 per calendar month from 17 August 2026 (which, again, did not appear to be a rent payment date) and which also stated that the last time the rent was increased was 1 September 2024 (rather than 15 February 2025 as stated in the First Rent Increase Notice), together with covering e-mail sending it to the Respondent dated 9 April 2026.
 - h. note with the headings "Dates", "Rental Payment" and "Tally Deficit Arrears" with dates from 23 January 2025 to 23 May 2026, which appeared to indicate that £525 per month had continued to be paid by the Respondent.

4. No pre-action protocol correspondence (as referred to in The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020, as amended) had been provided by the Applicant to the Tribunal.
5. A notice of acceptance of the application was issued dated 5 June 2026 under rule 9 of the HPC Rules.
6. The Tribunal was provided with a certificate of intimation from Walker Love, sheriff officers, which confirmed that the case papers and notification of the CMD had been served on the Respondent by depositing a copy in the letterbox at the Property on 17 August 2026.
7. The Respondent had not made any submissions or representations in advance of the CMD.
8. This decision arises out of the CMD.

REASONS FOR DECISION

9. The Tribunal was satisfied, on the balance of probabilities, that both parties had been notified of the date and time of the CMD.
10. The Applicant had not contacted the Tribunal to indicate that he would not attend.
11. If there was any reason for the Applicant's non-attendance, this was not known by the Tribunal at the CMD.
12. The Applicant was not present to put forward his case in order to seek to satisfy the Tribunal (on the balance of probabilities) that an eviction order may or should be granted.
13. The onus was on the Applicant to prove his case and he failed to do so.
14. Accordingly, the whole proceedings were dismissed in accordance with HPC Rule 27 (2) (b).

Right of Appeal

In terms of Section 46 of the Tribunals (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.

P S Woodman

1 October 2026

Chair

Date