



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) of the Private Housing (Tennancies) (Scotland) Act 2016 (“The Act”)

Chamber Ref: FTS/HPC/EV/25/3952

Re: Property at 9 Striven Crescent, Wishaw, ML2 0JL (“the Property”)

Parties:

Ms Jade-Louise Murdoch, 38 Hazeldean Crescent, Wishaw, ML2 8RE (“the Applicant”)

Ms Michelle Lever, 9 Striven Crescent, Wishaw, ML2 0JL (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Angus Lamont (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.

Background

[2] The Applicant seeks an Eviction Order under ground 12 of Schedule 3 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement, the notice to leave with proof of service, the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 and a rent statement. There is also evidence of compliance with *The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020*.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (“CMD”), by conference call at 10am on 6 March 2026. The Applicant was represented by Ms Miller of Ness Gallagher, solicitors. The Respondent was personally present. The Application called alongside a related Application for a Payment Order for sums said to be due as arrears of rent.

[4] The Applicant had submitted an updated rent statement showing rent arrears in the sum of £9,750.00. The Respondent had submitted written representations in advance of the CMD which made vague references to certain background circumstances. The Tribunal began by discussing the situation with the Respondent. It became apparent that she had in fact not paid any rent whatsoever since she took occupation of the Property in December 2024. Not one pound had been paid as rent.

[5] The Tribunal challenged the Respondent about the reasons for this. Her answers were confusing and appeared less than transparent. In her written representations for example, she said explicitly that she had paid rent at times without issue, but now she admitted that she had made no payments at all. The Respondent explained that she had been told when she moved in that she wouldn’t have to pay rent by the Landlord. The Tribunal explained to the Respondent that there was a copy of a signed tenancy agreement in the papers very clearly documenting the terms of the tenancy and the sums due as rent.

[6] The Tribunal explained that nothing the Respondent was saying suggested that she had any intention of paying rent going forward. The Respondent appeared to avoid this question in a highly unconvincing manner. The Respondent appeared to suggest that she had been rented the Property on the understanding that she would live there rent free for entirety of the tenancy. That not only conflicted with common sense, but also the terms of the tenancy agreement and the Respondent’s own representations.

[7] The Respondent explained that she lived in the Property with her two children, aged 11 and 17. The Tribunal enquired about whether the rent arrears might be on account of any delays in receiving state benefits. The Respondent confirmed that this was not the case and that she had no pending Applications for benefits. The Respondent also confirmed that the Property had not been adapted for any health conditions of the Respondent and her children. She also explained that she had been in touch with the housing department of her local authority and that they were aware of these proceedings. The Respondent had been told to inform the local authority of the outcome.

[8] The Applicant is currently paying a mortgage on the Property and is running at a significant loss as a result of the failure of the Respondent to honour the terms of the tenancy by paying rent.

[9] Having heard from the Applicant and having considered the whole facts and circumstances of the case, the Tribunal made the following findings in fact.

Findings in Fact

- 1) *The Applicant let the Property to the Respondent under a Private Residential tenancy within the meaning of the Act;*
- 2) *The Respondent fell into rent arrears and the sum of £9,750.00 is now lawfully due as arrears of rent by the Respondent to the Applicant;*
- 3) *The Applicant has signposted the Respondent to sources of financial support;*
- 4) *The Applicant competently served a notice to leave under ground 12 of Schedule 3 of the Act. Ground 12 was established at the date of service of the notice to leave and remains established as at today's date;*
- 5) *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003 and The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- 6) *The Respondent has failed to pay any rent whatsoever or give any assurances that rent might ever be paid.*
- 7) *The Property has not been especially adapted for the Respondent or her children.*
- 8) *The Respondent's rent arrears are not as a result of a delay in the payment of any state benefit.*
- 9) *The Respondent is receiving support from the housing department of her local authority.*

Reasons for Decision

[10] Having made the above findings in fact, the Tribunal considered that the ground set out in the notice to leave was established. The Tribunal also considered that it was reasonable to make an Eviction Order. The Tribunal therefore granted the Application and made an Eviction Order.

[11] The Tribunal concluded that the Respondent's position was too self -contradictory and lacking in substance to warrant any further delay in determining the Application. What was said by the Respondent could not form the basis of any legitimate defence

and the Tribunal was obliged to deal with matters efficiently by determining the Application today.

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.

Andrew McLaughlin

Legal Member/Chair

6 March 2026.

Date