



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/25/3450

Re: Property at 2 The Grove, Auchterarder, PH3 1PT (“the Property”)

Parties:

Rory Fraser, Judith Fraser, Easter Cottage, Orchill Road, Auchterarder, PH3 1NB (“the Applicants”)

Gerda Rocks, 2 The Grove, Auchterarder, PH3 1PT (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. This is an application by the Applicants for an eviction order in regard to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”). The application related to a PRT by the Applicants to the Respondent commencing on 19 November 2018.
2. The application was lodged with the Tribunal on 12 August 2025 (though an amended application of 29 August 2025 was the application advanced). The application relied upon a Notice to Leave in terms of section 50 of the *Private Housing (Tenancies) (Scotland) Act 2016*, dated 2 April 2025 and intimated upon the Respondent by email on that date (in terms of the Tenancy Agreement). The Notice relied upon Ground 12 of Schedule 3 Part 1 of the 2016 Act, and referred to arrears of £3,570 and arrears having been in existence for 11 consecutive months. It further relied upon “[t]wo re-payment plans having been agreed with the tenant, however the tenant has not been

able to stick to them, having faltered after 1 month of the most recently agreed plan". The Notice stated that no action would be advanced prior to 3 May 2025.

3. Evidence of a section 11 notice in terms of the Homelessness Etc. (Scotland) Act 2003 served upon Perth & Kinross Council on 12 August 2025 was provided with the application. There was evidence in the application papers of provision of the pre-action protocol information by the Applicants' agent to the Respondent in emails dated 15 July, 22 July, 29 July and 5 August 2025.
4. Prior to the case management discussion ("CMD") both parties provided further written submissions and documentation. The Respondent provided the following submissions by email on 18 February 2026:

... I intend to oppose the eviction.

I apologise that this response is being submitted slightly after the stated date; I have only recently been able to fully review the application papers.

I acknowledge that arrears are currently outstanding; however, I am awaiting a significant payment which will reduce the arrears substantially. I will provide updated information as soon as the payment is received.

I respectfully request that this email be treated as notification of my intention to respond.

5. Thereafter, on 6 March 2026, the Applicants' agent provided an updated rent statement. It showed the following:
 - a. The transactions on the rent account from 19 April 2023. (We were told at the CMD that this was the start of the present agent's period of management, as a different agent had managed before then.)
 - b. That every rent payment was at least late by around a week, with a number entirely missed. Rent was listed due on the 19th of the month (which the Tenancy Agreement confirmed) but the earliest we saw rent marked as received was around a week late, sometimes into the next month.
 - c. There were periods of missed payments, with arrears developing and then being cleared. We saw these around August 2023 and January 2024.
 - d. From May 2024, however, the rent had continually remained in arrears and materially climbed from 19 February 2024 for the next two years.
 - e. Arrears had remained stable at £7,740 from 19 October 2025, with rent being paid monthly, though late, each month.
 - f. The rent is £1,050/m, being the same rent as in Tenancy Agreement from 2018. The rent had thus never been increased.
6. On 12 March 2026, the Applicants' agent lodged a "Timeline of events" setting out in more detail the discussions with the Respondent around the two re-payment arrangements entered into but thereafter breached.

7. At 18:50 on 12 March 2026, the Respondent sent an email with final submissions and a motion to postpone:

Unfortunately I am not in a position to participate in the hearing and I have not been able to obtain advice or representation in time. I would respectfully request an adjournment to allow me time to seek housing advice and to address the rent arrears situation.

I apologise for the short notice and appreciate your consideration.

The Hearing

8. The matter called for a CMD, conducted by telephone conference call, at 10:00 on 13 March 2026. We were addressed by the Applicants' representatives, Murray Hall, Associate Director, Kayley Hallgarth-Myles, Senior Property Manager, both of Premier Properties Perth. As per her email of the previous evening, there was no appearance by the Respondent. We asked for the Applicants' response to the motion to postpone. This was opposed and they confirmed that they sought an order for eviction at the CMD. In the circumstances, we stated that we would conduct the CMD in normal fashion and then consider the motion for an order against the motion to postpone.
9. Given the full nature of the application, especially alongside the updated rent statement and timeline, much of the Applicants' submissions simply repeated what was already before us. We note, however, the following points as particularly relevant:
 - a. The Respondent was believed to be a self-employed counsellor and psychotherapist, working both from the Property and elsewhere.
 - b. The Applicants' agents did not believe that the arrears arose specifically from affordability issues, as they believed the rent was around 20% of her monthly income. They understood that the Respondent had investigated possible income-supporting benefits but was ineligible due to the size of her regular income.
 - c. The Applicants' agents believed that there was not an issue with arrears when the Property was handled by the previous agent.
 - d. The Respondent had stated to them on 3 September 2024 that her mother had recently passed away, but the Applicants' agents did not understand the Respondent cited that as a cause for the arrears (but as a reason for her communication being poor at the time).
 - e. The Respondent's communication had generally been poor, however, with access to the Property difficult to obtain. The last inspection of December 2024 took two months to arrange with the Respondent.
 - f. On 28 January 2025, the Respondent had disclosed that she had recently started medication in connection with neurodivergent conditions. Again, the agents did not understand the Respondent cited that as a cause for the arrears, but it was mentioned by the Respondent as part of an acknowledgement to the Applicants' agents that she accepted her communication and organisation was poor, and that she was working to put in methods to ensure better organisation. The Respondent mentioned that she was receiving support.

- g. On 29 January 2025, the Respondents gave permission for the agents to contact her support worker (providing support relating to her neurodivergence).
 - h. A meeting followed between Mr Hall, the support worker and the Respondent when suggestions were made and accepted by the Respondent (including setting up a standing order), and the second repayment plan was entered into for £1,330 per month to cover rent and a payment towards arrears. This repayment plan was not kept to however. Three payments totalling £1,330 were received between 21 and 27 February 2025, but then no payments until 25 April 2025. A total of £1,330 was paid between 25 April and 18 May but no payments against arrears have been made since.
 - i. The Applicants' agents expressed significant puzzlement at the Respondent's behaviour, in that she showed every sign of being able to afford the rent, and to be able maintain rental payments (though routinely late). Within the last year, a new Range Rover had been seen in her driveway, though her previous car also remained (though she was thought to be the only driver in the household), suggesting that she had disposable income that she was using to upgrade her vehicle rather than reduce the arrears.
10. In regard to the Respondent's submissions, the Applicants made the following comments:
- a. The Respondent had also told them of the potential for a large payment against arrears but, despite their prompting, the Respondent had not disclosed the source.
 - b. The Respondent had never said the likely size of the payment, nor her proposal for clearing any remaining arrears thereafter. (We noted that the submission of 18 February did not suggest the payment would clear all arrears, just that it would "reduce the arrears substantially".)
11. We noted the following points relevant to reasonableness:
- a. The Respondent was believed to be 45-55 and, as stated above, was a self-employed counsellor and psychotherapist.
 - b. She was believed to reside at the Property with her daughter, whose age was unknown but she was believed to still attend school.
 - c. The agent who conducted the December 2025 inspection was concerned about the condition of the Property, both internally and externally, and was concerned that it was not being properly maintained by the Respondent.
 - d. The Applicants did not yet have a set view on whether to relet or sell the Property once it was repossessed.
 - e. There remained a standard security over the Property, but the Applicants' agents did not have details of any monthly mortgage cost. They did understand that the Applicants were struggling on a month-to-month basis due to the irregularity of the rental income.
 - f. The Applicants had other rental properties but not managed through the Premier Properties Perth.
 - g. The Property was a two-bed bungalow. It was not adapted for the Respondent's use nor the use of her daughter. It was not known to be especially suitable for her use.

12. No motion was made for expenses.

Findings in Fact

13. The Applicants let the Property as a Private Residential Tenancy to the Respondent with commencement on 19 November 2018 (“the Tenancy”).
14. In terms of clause 7 of the Tenancy Agreement, the Respondent requires to pay rent of £1,050 a month in advance on the 19th day of each month.
15. In terms of clause 7, the method by which rent is to be paid is standing order but that other methods may be used if reasonable in the circumstances.
16. Since the Applicants’ agents commenced management on 19 April 2023, they have never received payments by standing order.
17. Since the Applicants’ agents commenced management on 19 April 2023, the Respondent has never paid monthly rent on time.
18. As of 2 April 2025, the Respondent was in arrears of rent of £3,570.
19. On 2 April 2025, the Applicants’ agent drafted a Notice to Leave in correct form addressed to the Respondent, providing the Respondent with notice, amongst other matters, that she was in rent arrears of £3,570.
20. The Notice to Leave provided the Respondent with notice that no application would be raised before the Tribunal prior to 3 May 2025.
21. The Applicants’ agent served a copy of the Notice to Leave on the Respondent by email on 2 April 2025.
22. The Applicants raised proceedings on 12 August 2025 for an order for eviction with the Tribunal, under Rule 109, relying on Ground 12 of Schedule 3 Part 1 of the 2016 Act.
23. A section 11 notice in the required terms of the *Homelessness Etc. (Scotland) Act 2003* was served upon Perth & Kinross Council on 12 August 2025.
24. The Applicants’ agent provided the Respondent with pre-action protocol letters in standard form by email on dated 15 July, 22 July, 29 July and 5 August 2025.
25. The Respondent has made frequent but irregular payments against rent since 19 April 2023.
26. As of 6 March 2026, the Respondent remains in arrears of rent of £7,740, being the equivalent of over 7 months’ rent.

27. The rent has been in arrears to some extent since 19 May 2024.
28. The sum of arrears for the period to 6 March 2026 is not a consequence of a delay or failure in the payment of a relevant benefit.
29. The Respondent is a professional in self-employment.
30. The Respondent's daughter lives with her.
31. The Applicants have a property portfolio.
32. The Applicants have suffered financial stress due to the irregular payments and arrears for the Property.
33. On 28 January 2026, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 13 March 2026.

Reasons for Decision

34. The Tribunal is not a payment monitoring service, and certainly not for monitoring an unspecified offer to make some payment at some point. Further, we do accept the Applicants' desire to draw a line and seek vacant possession at this time. In all these circumstances, we decided not to continue the CMD for the Respondent to make payment.
35. In regard to a continuation to obtain representation, the Respondent has offered no defence on any issue, nor any information on attempts to obtain representation to date, nor any information as to why she was unable to appear at the CMD. Thus we did not see a purpose in a continuation for her to obtain representation, especially on a motion intimated after close of business on the day before the CMD.
36. The application was in terms of rule 109, being an order for eviction from a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been correctly drafted and served upon the Respondent in respect of the interests of the Applicants.
37. Ground 12 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:
 - (1) *...the tenant has been in rent arrears for three or more consecutive months. ...*
 - ...
 - (3) *The First-tier Tribunal may find that the ground named by subparagraph (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.*

...

38. The arrears information provided in the application clearly showed that Ground 12 was satisfied in regard to the length of arrears and amount outstanding. Ground 12 is satisfied subject to paragraph 3(b) regarding reasonableness. Further, the Respondent acknowledge that there were "arrears... currently outstanding" and did not seek to dispute the amount.
39. We require, in terms of the Act as currently amended, to consider the reasonableness of the application even in regard to persistent and significant arrears. The Respondent had engaged in regard to the arrears but not in an effective fashion. Indeed, her engagement had only resulted in further delay and inconvenience to the Applicants as the Applicants' agents monitored for compliance, noted the repayment agreements were breached, and sought to engage with the Respondent again.
40. We accepted that the Respondent had been provided with ample opportunity to undertake simple steps in resolution (such as paying the monthly rent by standing order) and provide straight-forward updates (such as how she expected a substantial payment against arrears might be made). She had failed to do so. Further, though she had contacted Tribunal it was only to provide the same level of sparse update that the Applicants had encountered, and then a belated request to delay matters. The Respondent had thus not used the opportunities provided to her to date. She had acted unreasonably by making irregular payments and not setting up a standing order as required by the Tenancy Agreement.
41. We found the Applicants' position on reasonableness compelling. It was reasonable for the Applicants to wish to draw a line on this Tenancy due to the high arrears, and reasonable for them not to wait for a potential repayment of some arrears from an unknown source at an unspecified time, certainly after a protracted period of engagement with the Respondent and her support worker that had resulted in failed repayment proposals and a continued failure by the Respondent to commence standing order payments for her monthly rent.
42. The Applicants' concerns about the condition of the Property, and continued issued with communication with the Respondent, further supported their argument on reasonableness. We would put it as high as holding that, even if the arrears were capable of being cleared in full tomorrow, the Applicants'

position on reasonableness would still be strong. Conversely, the Respondent had put forward no argument on reasonableness, other than that she wished to make a payment to reduce the arrears (which is, implicitly, a defence on reasonableness as it is not a defence on the merits, given that she admits there are substantial arrears).

43. The Rules allow at rule 17(4) for a decision to be made at a CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time.
44. We considered whether it was appropriate to suspend the order, in particular to take into account the school holidays or examination periods. No such suspension had been sought by the Respondent, however, and we lacked any firm information on whether there was a school-aged child at the Property. In the circumstances we did not regard it as appropriate to make any suspension.

Decision

45. In all the circumstances, we grant an order against the Respondent for eviction from the Property under section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* further to ground 12 of Schedule 3 of that Act.

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.

Joel Conn

13 March 2026

Legal Member/Chair

Date