



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/25/0061

Re: Property at 48 Lindsay Gardens, Bathgate, EH48 1DU (“the Property”)

Parties:

Algill Property Ltd, PO Box 29107, Edinburgh, EH10 6WP (“the Applicant”)

Mrs Bozena Mazur, 48 Lindsay Gardens, Bathgate, EH48 1DU (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Melanie Booth (Ordinary Member) (“the tribunal”)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order of eviction in respect of the Property be granted in favour of the Applicant

Background

1. The Applicant has applied under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”) on the ground that the Respondent has been in arrears of rent for three or more consecutive months.
2. The application is dated 8 January 2025.

Case Management Discussion 24 October 2025

3. A case management discussion (“CMD”) was held on 24 October 2025. There was no appearance by the Respondent.

4. The Applicant's representative intimated that there had been efforts to engage with the Respondent who had a friend who was assisting her. There was an indication that the Respondent was in the process of seeking advice from an advice agency and there was mention of the Respondent possibly making applications to West Lothian Council for financial assistance in paying arrears of rent as well as meeting ongoing rental commitments. There was also an issue because English is not the Respondent's first language.
5. The CMD was adjourned because it was considered fair and just to continue proceedings to allow time for the Applicant's representative to liaise further with the Respondent who would also have the opportunity of seeking relevant advice and possibly making applications for assistance to the local authority.

Case Management Discussion 27 March 2026

Preliminary Matters

6. The case management discussion was held by audio conference on 27 March 2026. Mrs Clare Todd of Rent Locally, the Applicant's letting agent was in attendance. A Polish interpreter was in attendance. There was no appearance by the Respondent and the CMD was delayed until 1005 am. It was noted that the proceedings had been intimated to the Respondent by Sheriff Officer on 17 February 2026. It was also noted that, in the case bundle, there was a letter from the Respondent requesting that a Polish interpreter be engaged for the adjourned CMD and, in responding, the Respondent was advised that the date of this would probably be 27 March 2026 but that she would get formal intimation in due course.
7. Mrs Todd was asked if there had been any interaction with the Respondent since the last CMD. She said that the Respondent had a friend, Mrs Smolarska, who had been supporting her. Mrs Todd said that, prior to the last CMD, she visited the property and had met with the Respondent and her friend. She said that she had been informed by them that full payment of the rent would be started. This did not occur. She said that she had subsequently been told that the Respondent had an appointment with Bathgate Citizens Advice Bureau. The letting agent received no contact from the advice agency. Mrs Todd said that she had tried on numerous occasions to telephone the Applicant and Mrs Smolarska and the calls were not answered, apart from one occasion after the last CMD when she called from a withheld number, where she was advised that the meeting with CAB had been delayed. She said that she had written letters to the Respondent but they had not been replied to.
8. In the circumstances, the tribunal determined to continue the proceedings in the absence of the Respondent.

9. Mrs Todd submitted that there was sufficient evidence for the application to be determined without a hearing.

10. Documents before the tribunal

10.1 Copy of the private residential tenancy agreement for the Property dated 11 January 2022 showing that the tenancy commenced on 19 January 2022. The tenancy agreement showed the tenant to be the Respondent. The tenancy agreement showed the landlord to be Ballantyne Prop Ltd.

10.2 Notice to Leave dated 22 November 2024.

10.3 Rent statement.

10.4 Notice to the local authority in terms of Section 11 of The Homelessness etc. (Scotland) Act 2003 dated 8 January 2025.

10.5 A Sales and Purchase Agreement dated 19 July 2023.

11. Findings in Fact

11.1 The Applicant has a beneficial interest in the Property and is entitled to apply for an order of eviction.

11.2 Ballantyne Prop Ltd and the Respondent entered into a Private Residential Tenancy Agreement for the Property on 11 January 2022.

11.3 The beneficial interest in the Property was transferred to the Applicant by a Sales and Purchase Agreement dated 19 July 2023.

11.4 The Applicant is entitled to apply for an order of eviction.

11.5 The start date for the tenancy was 19 January 2022.

11.6 At commencement of the tenancy, the rent was £650.

11.7 The current monthly rent for the Property is £875.

11.8 At the date of the application, the tenant had been in rent arrears since July 2023 and had been continuously in arrears since that date.

11.9 There are currently rent arrears of £4295.90.

11.10 The Applicant gave the Respondent Notice to Leave dated 22 November 2024.

11.11 The Applicant has given notice to the local authority in terms of Section 11 of the Homelessness etc. (Scotland) Act 2003.

12. Findings in Fact and Law

12.1 The Private Residential Agreement dated 11 January 2022 contains eviction grounds including Ground 12: "It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months."

12.2 The Notice to Leave, which was dated 22 November 2024, referred to Ground 12 which is being relied on by the Applicant as the reason for seeking recovery of the Property.

12.3 The Notice to Leave indicated that any proceedings for eviction would not be commenced prior to 23 December 2024.

The Law

The following are provisions of the Private Housing (Tenancies) (Scotland) (Act) 2016

Section 51: First-tier Tribunal's power to issue an eviction order

(1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

(introduced by section 51)

Schedule 3, Part 3

Rent arrears

12(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.】

(5) For the purposes of this paragraph—

(a) references to a relevant benefit are to—

(i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),

(ii) a payment on account awarded under regulation 91 of those Regulations,

(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,

(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,

(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.

(6) Regulations under sub-paragraph (4)(b) may make provision about—

(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),

(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

(c) such other matters as the Scottish Ministers consider appropriate.

Evidence and Submissions

13. The tribunal had regard to the documentation which had been lodged by the Applicant.

14. Mrs Todd asked the tribunal to accept that the ground for eviction was met.

15. Mrs Todd confirmed what she had said at the commencement of the CMD. She said that the rent arrears continue to rise and said that they are currently at £4295.90.

16. Mrs Todd invited the tribunal to consider it reasonable that the Applicant be allowed to recover the Property because of the level of rent arrears and the fact that they are rising.

17. Mrs Todd said that the Applicant had been content to allow the Respondent to remain in the Property if there had been some effort to repay the arrears and, going forward, to ensure that the ongoing rent payments were met. She said that this did not happen.

18. Mrs Todd said that the Respondent is currently paying the sum of £630 on a monthly basis and that it comes from her bank account, rather than a direct payment from Benefits.

19. Mrs Todd said that the Respondent resides in the Property on her own.

Discussion and Reasons

20. The tribunal had regard to the documentation which had been lodged by the Applicant.

21. The tribunal considered that there was no reason to adjourn determination of the application to a hearing.

22. In considering whether it was reasonable to grant the order of eviction, the tribunal considered the respective position of the parties.

23. The Applicant is entitled to be paid the rent and the Respondent is contractually bound to pay it. The rent arrears are rising on a monthly basis.

24. The Respondent is a lady who, at the previous CMD, was seventy four years old. She lives on her own. The tribunal had no further information about her because she had not engaged with the Tribunal process.

25. In balancing matters, the tribunal considered it reasonable to grant the order of eviction.

Note

26. At 10.15 in the proceedings, someone attempted to call into the teleconference. There was no response when the person was asked for their identity. The legal member and the Polish interpreter (in Polish) asked who was on the call and there was no response. The person then disconnected.

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.

Martin McAllister

**Martin J. McAllister
Legal Member
27 March 2026**