

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules)**

**Chamber Ref: FTS/HPC/EV/25/4596**

**Re: Property at 108 Mastrick Road, Aberdeen, AB16 5PN (“the Property”)**

**Parties:**

**Mr Andrius Kubilius, 154 Formartine Road, Aberdeen, AB24 2RA (the Applicant)**

**DJP Solicitors, 226 Holburn Street, Aberdeen (the Applicant’s Representative)**

**Miss Michelle Winchester, 108 Mastrick Road, Aberdeen, AB16 5PN (the Respondent)**

**Tribunal Members:**

**Ms Susanne L. M. Tanner KC (Legal Member)**

**Ms Jane Heppenstall (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal):**

**(1)(i) was satisfied that Ground 12(1) in Schedule 3, Part 3 to the 2016 Act was established by the Applicant, in that for three or more consecutive months the Respondents have been in arrears of rent; and (ii) was satisfied that it was reasonable on account of that fact to issue an eviction order; and**

**(2) made an order for eviction in terms of Section 51 of the 2016 Act.**

**The decision of the tribunal was unanimous.**

## **Statement of Reasons**

### **Procedural Background**

1. The Applicant's Representative made an application to the tribunal in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules). The Applicant seeks the Respondent's eviction from the Property in terms of Section 51 of the 2016 Act under ground 12 of Schedule 3 to the 2016 Act, namely that the tenant has been in arrears or rent for three or more consecutive months (the Application).
2. The Application was accepted for determination by the tribunal. A Case Management Discussion (CMD) teleconference was fixed for 22 April 2026 at 1400h.
3. The tribunal sent letters of notification to all parties with the date, time and arrangements for joining the CMD in relation to the Application. The Respondent was invited to make written representations in response to the Application by a specified date. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing an eviction order. The parties were also advised that if they do not attend the CMD this would not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair.
4. Service of the Application paperwork and notice of the CMD on the Respondent at the Property was by Sheriff Officers on 2 March 2026.
5. The Respondent did not submit any representations in the specified time period. The Respondent did not make any contact with the tribunal.
6. An updated rent arrears statement and an affidavit were lodged by the Applicant's Representative prior to the CMD.

### **CMD: 22 April 2026, 1400h, Teleconference**

7. Mr Purdie attended from the Applicant's representative.
8. The Respondent did not attend. The tribunal was satisfied that the requirements of Rule 24(1) regarding the giving of notice of a hearing have been duly complied with

and proceeded with the application upon the representations of the party present, in term of Rule 29 of the 2017 Rules.

### **Applicant's submissions**

9. Mr Purdie asked the tribunal to proceed with the eviction order today.
10. He submitted that there are substantial rent arrears. He submitted that the Respondent has asked the Applicant to get her evicted and has told the Applicant that she wants Local Authority housing. Mr Purdie stated that the discussion took place in September 2025, almost immediately after the Applicant assumed title to the property. Mr Purdie referred to the terms of the affidavit which was lodged prior to the CMD, which includes sworn evidence on this point.
11. Mr Purdie stated that the Applicant bought the property with a sitting tenant as the tenancy and all rights associated with it were assigned to the Applicant.
12. Mr Purdie made submissions about the Applicant's engagement with the Pre Action Requirements (PAR). He submitted that the only compliance necessary was that the Respondent said that she was not going to pay the rent and wanted to be evicted, thereby rendering the PAR academic. He submitted that as she wanted to move out, the tribunal could find that to that extent that there was compliance. He submitted that the Respondent has put the Applicant to the inconvenience of further rent arrears. He submitted that there is no prejudice to the Respondent in the situation that she has asked for the eviction process to be initiated. There was also contact between the Applicant and Respondent where she wanted an update on the eviction. She has told the Applicant that she does not like property or neighbours and wants to move to a council house. She has told the Applicant that she has received advice from the local authority that she needs an eviction order before housing will be offered.
13. Mr Purdie thinks that the Respondent has two children. He does not know anything about her employment but understands that she may not work. He submitted that she has had advice from the council and had plenty of time to oppose the application and that it can be inferred from these facts that she wants an eviction order.
14. Mr Purdie referred to the updated rent arrears statement which was lodged before the CMD. He stated that the Respondent has made two payments in December 2025 and February 2026, totalling £1300, since Notice to Leave was served. He stated that she agreed to make a payment to rent so that repairs would be carried out. She has made no other payments since the Applicant became the landlord.

He stated that those payments were her suggestion but that it remains the case that she is not willing to pay rent. He submitted that she only paid those payments that to facilitate some kind of repair work. Those payments came directly from the tenant. There is no benefits assistance in respect of this tenancy.

15. Mr Purdie stated that the Property has two bedrooms. It is on two levels. The Property has not been changed or adapted for any disabilities. There is no one with vulnerabilities or with special needs.

16. The tribunal adjourned to deliberate.

**17. The tribunal makes the following findings-in-fact:**

17.1. The Applicant has been the registered proprietor of the Property since 1 September 2025.

17.2. The Applicant bought the Property with the Respondent as a sitting tenant and became her landlord.

17.3. As at 1 September 2025, the Respondent had rent arrears for the Property of £4475.00.

17.4. The Applicant entered into a private residential tenancy agreement with the Respondent for the Property which began on 1 September 2025.

17.5. Rent is payable at the rate of £825.00 per calendar month in advance from the start of the tenancy on 4<sup>th</sup> of each month.

17.6. On 19 September 2025, a Notice to Leave containing ground 12 of Schedule 3 to the 2016 Act was served on the Respondent.

17.7. The Applicant has given the Respondent at least 28 days' notice that he requires possession.

17.8. The Respondent has made two payments towards the rent arrears since the Notice to Leave was served, totalling £1300.

17.9. As at 22 April 2026, the total rent arrears are £9775.00, which includes rent due on 4 April 2026.

17.10. As at the date of service of the Notice to Leave and as at 22 April 2026 there have been rent arrears for more than three consecutive months.

17.11. The Respondent continues to reside in the Property.

17.12. The Respondent wishes to move out of the Property and into local authority accommodation.

17.13. The rent arrears are not a consequence of delay or failure in payment to the Respondents of relevant benefits.

## **Discussion**

18. The order for eviction is sought in the Application in terms of Section 51 and paragraph 12(2) of Schedule 3 to the 2016 Act. The tribunal is satisfied that the facts required in paragraph 12(2) of Schedule 3 to the 2016 Act have been established.

19. In relation to reasonableness, reference is made to the tribunal's findings in fact. The Respondent has not opposed the application for eviction. She has not produced any defence. She has had the opportunity to obtain legal, and/or housing advice. There is no evidence that she is on any relevant benefits or that there is any other reason why it would not be reasonable to evict her from the Property. The tribunal is satisfied on the basis of the sworn affidavit of the Applicant that the Respondent wants to move out of the Property and into local authority housing. The tribunal was satisfied that it was reasonable to evict the Respondent, in the circumstances of the case.

## **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.**

**22 April 2026**

**Ms. Susanne L. M. Tanner K.C.**  
**Legal Member/Chair**