



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/25/3788

Re: Property at Michaelmuir Croft, Ythanbank, Ellon, AB41 7TE (“the Property”)

Parties:

Dr Bettina Riedel, Timaru, Ythanbank, Ellon, AB41 7UA (“the Applicant”)

Ms Christine Howey, Michaelmuir Croft, Ythanbank, Ellon, AB41 7TE (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be granted.

Background

1. On 4th September 2025 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Grounds 11 and 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Tenancy Agreement showing a commencement date of 27th July 2021 and a rent of £700 per month;
 - ii. Copy Notice to Leave dated 24th September 2025 and proof of service;
 - iii. Section 11 Notice and proof of service;
 - iv. Copy Rent Statement showing arrears of £5700 as at 24th September 2025;
 - v. Pre Action Requirements letters
 - vi. Photographs

3. The Application was served on the Respondent by Sheriff Officers on 16th April 2026.

Case Management Discussion

4. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant was represented by There was no attendance by the Respondent or any representative on her behalf.
5. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
6. The Applicant sought an order for eviction in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016, being the rent arrears. She said that the current arrears stood at £7409.94. she said that she applied to the local authority in November 2025 for the rent to be paid direct and it had been since then. The rent is currently £800 per month, and the sums received from the local authority each month are £475 and £40.01. The arrears are therefore increasing each month.
7. In relation to reasonableness the Applicant said that the property is a two bedroomed cottage and that until recently the Respondent lived there alone, but there now appears to be another woman living with her. There have often been people coming and going. There are no children living in the property to the best of her knowledge. She is not aware of the Respondent having a disability, nor is she aware of the property having been adapted to accommodate a disability.
8. The Applicant said that she has not had access to the property for several years, and any time she has tried to engage with the Respondent regarding arrears she is met with abuse and aggression. She is not sure if the Respondent is in employment, when she moved in to the property she was involved in dog breeding.
9. The Applicant said that she remortgaged her existing property to buy this one and she had hoped that the rent would cover the mortgage. She is having to make the payments herself. Both she and her husband are in employment, but the loss of the rent is hard for them.
10. The Tribunal indicated that it was minded to grant the order on the rent arrears ground, Ground 12. The Applicant confirmed that she would not therefore proceed to seek eviction on Ground 11.

Findings in Fact

- a. The parties entered into a Tenancy Agreement in respect of the property commencing 27th July 2021 with a rent of £700 per month, later rising to £800 per month;
- b. A Notice To Leave, dated 24th September 2025, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. The Applicant complied with the Pre Action Requirements;
- e. As at the date of service of the Notice to Leave the arrears were £5700;
- f. The Application was served on the Respondent by Sheriff Officers on 16th April 2026.
- g. Current rent arrears are £7409.94;
- h. Part of the ongoing rent is met directly from benefits;
- i. The Respondent does not have any children living in the property;
- j. The Respondent is not known to have a disability;
- k. The lack of payment of the rent is causing hardship for the Applicant.

Reasons for Decision

11. Ground 12 states as follows:

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.

12. The Tribunal is satisfied that the ground is met. The Tribunal is also satisfied that it is reasonable to grant the eviction order. The Respondent has refused to engage with either the Applicant or the Tribunal process. She has rent arrears in excess of 9 months' worth of payments. This level of arrears in and of itself make it reasonable to grant the order.

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.

Alison Kelly

19th May 2026

Legal Member/Chair

Date