



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

**Chamber Ref: FTS/HPC/EV/25/4788**

**Re: Property at 2 SOUTH DRAFFAN FARM COTTAGES, BLACKWOOD, SOUTH  
LANARKSHIRE, ML11 9PW (“the Property”)**

**Parties:**

**THE FIRM OF TC STEWART AND SONS, MARSHILL FARM, DRAFFAN,  
LESMAHAGOW LANARKSHIRE, ML11 9PW (“the Applicant”)**

**MS FRANCIS MCILROY, 2 SOUTH DRAFFAN FARM COTTAGES,  
BLACKWOOD, SOUTH LANARKSHIRE, ML11 9PW (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Mr D Godfrey (Ordinary Member)**

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

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

**Background**

1. This is a Rule 109 application made under ground 12. The Applicant representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 21<sup>st</sup> September 2023 at a monthly rent of £272, a notice to leave with evidence of service, a section 11 notice with evidence of service, a rent increase notice, pre-action requirement correspondence, and a rent statement.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officer on 27<sup>th</sup> April 2026.

**The Case Management Discussion**

3. A Case Management Discussion (“CMD”) took place by telephone conference on 26<sup>th</sup> May 2026. Mr Andrew Stewart, Partner, was in attendance on behalf of the Applicant. The Applicant was represented by Ms Brow, Solicitor. The Respondent was not in attendance. The start of the CMD was delayed to

allow the Respondent to join the teleconference. The Respondent did not join the teleconference.

4. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
5. Ms Brow said the Applicant was seeking an eviction order. The current balance of arrears is £4740. The Respondent has not been in contact with the Applicant or Ms Brow. Mr Stewart said he has attempted to speak to the Respondent when he sees her at the Property, which is a farm cottage. The Respondent does not engage.
6. Ms Brow said the Applicant's letting agent has issued pre-action correspondence but the Respondent has not replied. The Respondent has made no attempt to enter into any payment plan. The Applicant has endeavoured to support the Respondent but there is no engagement by the Respondent. Ms Brow said the Applicant has exhausted all avenues and it would be reasonable to grant an order.
7. Responding to questions from the Tribunal, Mr Stewart said the Respondent lives alone. The Respondent was previously in employment, but it is thought that may no longer be the case. Mr Stewart was not aware of any social or health issues in respect of the Respondent.
8. It was clarified that the Respondent paid rent after the rent was increased in September 2024. Mr Stewart said the Respondent had indicated that she was objecting to a neighbour in the adjacent property and stopped paying her rent thereafter. Mr Stewart said there are six let cottages on the farm, and there is a mortgage over the farm.

## **Findings in Fact**

9.
  - (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 21<sup>st</sup> September 2023 at a monthly rent of £272.
  - (ii) The monthly rent was increased to £305 on 1<sup>st</sup> October 2024.
  - (iii) The Applicant has served a Notice to Leave upon the Respondent.
  - (iv) The Respondent has accrued rent arrears.
  - (v) The Respondent has been in rent arrears for three or more consecutive months.

- (vi) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
- (vii) The Applicant has complied with the pre-action protocol.
- (viii) It is reasonable to grant an eviction order.

### **Reasons for Decision**

10. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if for three or more consecutive months the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that Ground 12 has been established.
11. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the Respondent was in rent arrears as a result of a delay or failure in the payment of a relevant benefit.
12. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. The Tribunal was satisfied on the evidence before it that the Applicant's letting agent has complied with the pre-action protocol by sending letters to the Respondent.
13. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
14. At the time of making the application, the Respondent had not paid rent since February 2025. The arrears are now substantial and rising. The Respondent did not see fit to attend the CMD or make any representations to assist the Tribunal in considering reasonableness. The Tribunal was unable to assess the likely effect of an eviction order upon the Respondent in the absence of any representations. The Respondent has disengaged and is making no effort to pay the rent or address the arrears. She has failed to address the arrears over a lengthy period despite the efforts of the letting agent. The Tribunal considered it likely that, if no order was granted, the arrears would continue to rise. The Tribunal considered the tenancy is not sustainable
15. The Tribunal considered the Applicant is suffering financially as a result of the Respondent's failure to pay the rent and address the arrears.
16. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend or make representations to the

Tribunal to indicate why an order should not be granted, and the Respondent failed to do so. The Tribunal considered it was reasonable to grant the order sought.

### **Decision**

17. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 29<sup>th</sup> June 2026.

### **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.**

# H Forbes

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Legal Member/Chair

26<sup>th</sup> May 2026  
Date