



**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/25/3419**

**Re: Property at Flat 7, 5 Baileyfield Crescent, Edinburgh, EH15 1BW (“the Property”)**

**Parties:**

**Castle Rock Edinvar Association Ltd in Association With Places For People Scotland, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)**

**Mr Terry Reed, Flat 7, 5 Baileyfield Crescent, Edinburgh, EH15 1BW (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member) and Ahsan Khan (Ordinary Member)**

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

**Background**

1. On 8<sup>th</sup> August 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 Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
  - i. Copy Private Residential Tenancy Agreement showing a commencement date of 9<sup>th</sup> July 2021 and a rent of £605 per month;
  - ii. Copy Notice to Leave dated 4<sup>th</sup> June 2025;
  - iii. Copy email dated 4<sup>th</sup> June 2025 to the Respondent serving the Notice to Leave;
  - iv. Section 11 Notice and proof of service;
  - v. Copy Rent Statement showing arrears of £5544.60 as at 1<sup>st</sup> August 2025;
  - vi. Pre Action Requirements email

3. The Application was served on the Respondent by Sheriff Officers on 21<sup>st</sup> January 2026.
4. On 5<sup>th</sup> March 2026 the Applicant lodged an up to date rent statement showing arrears of £5334.60 as at 2<sup>nd</sup> March 2026.

### **Case Management Discussion**

5. A Case Management Discussion (“CMD”) took place by teleconference on 10<sup>th</sup> March 2026. The Applicant was represented by Mr Caldwell of Patten and Prentice, Solicitors. There was no attendance by the Respondent or any representative on his behalf.
6. The CMD Note is referred to for the discussion which took place. The Tribunal continued the CMD for the following reasons:
  - Although Mr Caldwell said that the Respondent has not engaged with the Applicant he telephones to make a payment each month to the arrears. This suggests that he wants to remain in the property. If given a further opportunity the Respondent may engage with the tribunal process.
  - There is limited information about the Respondent’s personal circumstances. There is no information about his health, his attempts to secure alternative accommodation, and whether part of the arrears are attributable to issues with benefit payments when he lost his employment.
  - The Applicant’s insistence on seeking an eviction order, because the payments to the arrears are insufficient, is at odds with their willingness to give an undertaking not to enforce it if the arrangement is maintained.
  - There is no prejudice to the Applicant as long as the current payments are being made and the arrears are reducing.
7. The Tribunal also issued a Direction for the Applicant to produce an up to date rent statement and for the Respondent to provide information which the Tribunal considered would assist it in making a decision.
8. On 18<sup>th</sup> May 2026 the Applicant lodged an up to date rent statement showing arrears of £5374.60.
9. The Respondent did not comply with the Direction.

### **Continued Case Management Discussion**

10. A Continued Case Management Discussion (“CCMD”) took place by teleconference on 20<sup>th</sup> May 2026. The Applicant was represented by Mr Caldwell of Patten and Prentice, Solicitors. There was no attendance by the Respondent or any representative on his behalf.
11. Mr Caldwell said that he was renewing his motion to have the order for eviction granted. He reiterated the arguments that he had made at the previous CMD.

He accepted that the situation had stabilised since the summer of 2025 and the rent was now being met in full by benefits and the Respondent was making payments of £30 per month towards the arrears, although not consistently as several payments had been missed. He said that the Applicant was a large organisation offering mid market rental properties, and that they did have a large housing stock. He said that the only contact the Respondent had made with his clients was after the CMD on 10<sup>th</sup> March 2026, when he had called them to say that he had not participated because he had not received a call from the Tribunal.

12. Mr Caldwell said that the Respondent had had every opportunity to engage with the Applicant and with the Tribunal. He noted that the Respondent had not complied with the Direction issued on 10<sup>th</sup> March 2026. (The Tribunal noted that it had been sent to the Respondent by first class post.) He said that the arrears were chronic, and if the repayments of £30 per month continued it would take about 13 years to pay them off.

### **Findings in Fact**

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing 9<sup>th</sup> July 2021;
- b. A Notice To Leave, dated 4th June 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 Protocols
- e. The Application was served on the Respondent by Sheriff Officer on 21<sup>st</sup> January 2026;
- f. At the time the Notice to Leave was served the arrears were £5730.76;
- g. The current arrears are £5274.60;
- h. The rent had been met in full by benefits since August 2025;
- i. The Respondent has been paying £30 per month towards arrears since August 2025 but has missed three payments;
- j. The Respondent did not comply with the Tribunal's Direction.

### **Reasons for Decision**

13. 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.*

14. The Tribunal is satisfied that, for a period of three or more consecutive months, the Respondent has been in arrears of rent and that Ground 12 is therefore established. The rent is currently met in full by benefits and the Respondent has made some additional payments of £30 per month, resulting

in a slight reduction in the arrears since the application was made. However, some of these additional payments have been missed, which reduces the Tribunal's confidence that this level of repayment will be sustained. The Respondent has failed to engage with both the Applicant and the Tribunal. In particular, he did not engage with the Tribunal despite being afforded two opportunities to do so, and he failed to lodge any written defence or comply with the Direction. No explanation has therefore been provided as to why it would not be reasonable to grant the order. The Tribunal has had regard to the fact that the Applicant is a large social landlord with a substantial housing stock, but does not consider that it can reasonably be expected to sustain arrears of this level indefinitely. In these circumstances, and in the absence of any material to the contrary, the Tribunal is satisfied that it is reasonable to grant the eviction 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

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**Legal Member/Chair**

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**Date** 20<sup>th</sup> March \_\_\_\_\_