

Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/CV/25/3803

Re: Property at Auchederson Farm House, Aultgowrie, Muir of Ord, IV6 7XA (“the Property”)

Parties:

Phoebe Hingston, Estate Office, Tower, Muir of Ord, IV6 7UT (“the Applicant”)

Mr Ryan Huddlestone, Auchederson Farm House, Aultgowrie, Muir of Ord, IV6 7XA (“the Respondent”)

Tribunal Member:

Yvonne McKenna (Legal Member)

Decision

The Tribunal grants the following orders sought by the Applicant; -

- (i) To find and declare that the Private Residential Tenancy Agreement between the Applicant and the Respondent and another terminated on 11 July 2025;**
- (ii) To grant an order for possession of the Property in favour of the Applicant against the Respondent.**
- (iii) To ordain the Respondent to pay to the Applicant the sum of £12,000 (TWELVE THOUSAND POUNDS ONLY) with interest thereon at a rate of 8% per annum from 5 August 2026 until payment.**

Background

1. This is an application for a payment order under section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 and Rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (**‘the Rules’**). The Applicant sought to recover a sum equivalent to a reasonable rent for the Property, being a daily rate of £32.88 or such other sum as the Tribunal deemed as appropriate, from and including 12 July 2025, to the date on which the Respondent removed from

the Property, or such other date as the Tribunal deemed appropriate, with interest thereon.

2. Within the same case application, the Applicant sought an additional two remedies, firstly an order of declarator that the private residential tenancy ('PRT') between the parties terminated on 11 July 2025; and secondly an order for the Respondent to remove himself from the Property.

3. The Applicant submitted along with the application, the following documents;

- Copy Private Residential Tenancy Agreement dated 29 March 2024.
- Mutual Agreement to End Tenancy dated 27 June 2025, 2 July 2025 and 5 July 2025.
- Email from Ms Callow to the Applicant dated 26 June 2025 at 13:15.
- Email from the Respondent to the Applicant dated 27 June 2025 at 16:23.
- Email from Ms Callow to the Applicant dated 27 June 2025 at 15:53.
- Email from the Respondent to the Applicant dated 27 June 2025 at 16:44.
- Email from the Applicant to the Respondent dated 27 June 2025 at 5.39pm.
- Letter from the Applicant to the Tenants dated 27 June 2025.
- Letter from the Applicant to the Tenants dated 3 July 2025.
- Letter from the Applicant to the Tenants dated 8 July 2025.
- Letter from the Applicant to the Respondent dated 8 July 2025.
- Letter from Brodies LLP to the Respondent dated 31 July 2025.
- Section 11 Notice to Highland Council

4. The application was accepted and referred to a case management discussion ('CMD') to take place by teleconference on 24 February 2026. The Tribunal gave notice of the CMD to the parties. Said notice, along with a copy of the case papers, was served upon the Respondent by sheriff officers on 13 January 2026, and required the Respondent to submit any written representations to the Tribunal in response to the application.

5. On 20 January 2026, the Respondent lodged written representations and the following documents;-

- Copy PRT.
- Mutual Termination Agreement.
- Email correspondence between the Respondent and Fairburn Estate.
- Email correspondence from Brodies LLP on behalf of Fairburn Estate.
- Evidence of continued occupation of the Property by the Respondent

The Case Management Discussion

6. A CMD took place by teleconference, on 24 February 2026. The Applicant was represented by Ms Lauren Smith solicitor, Brodies LLP. The Respondent was present, supported by his partner Ms Amy Hamlett.

Position of the Applicant

7. Ms Smith said that the Applicant's position was that this was a straightforward dispute which could be determined on the basis of written representations.

8. The Applicant is the heritable proprietor of the Property. The Applicant let the Property to the Respondent and Ms Robyn Callow by a PRT dated 29 March 2024. On 26 June 2025, Ms Callow notified the Applicant that she wished to terminate the PRT. On 27 June 2025, the Respondent notified the Applicant that he also wished to terminate the PRT, and arrange for a new tenancy. The Applicant suggested a termination date of 11 July 2025, which was agreed by Ms Callow and the Respondent. The Applicant and both tenants entered a 'Mutual Agreement to End Tenancy' ('MAET') dated 27 June, 2 July and 5 July, all dates in the year 2025, which narrated that the PRT would terminate from 11 July 2025.

9. On 27 June 2025, the Applicant wrote to the Respondent advising that neither the Applicant nor the Respondent were committed to a new tenancy until a tenancy agreement had been signed.

10. On or around 3 July 2025, the Applicant visited the Property to carry out an inspection. The Applicant wrote to the tenants on 3 July 2025 setting out various breaches of the Agreement which were evident from the Applicant's inspection of the Property. The Applicant advised that those issues must be resolved before the Applicant would consider granting a new tenancy.

11. On 8 July 2025, the Applicant wrote to the tenants to advise that the Respondent would not be granted a new tenancy, and that all possessions must be removed from the property by Friday, 11 July 2025.

12. The PRT terminated on 11 July 2025, in accordance with the Mutual Agreement to End Tenancy dated 27 June 2025, 2 July 2025 and 5 July 2025. The Respondent failed to remove from the Property on 11 July 2025.

13. On 31 July 2025, the Respondent was called upon to remove from the property by 5pm on Monday, 4 August 2025. He has refused to do so. The Respondent continues to occupy the Property without right or title to do so. He is liable to pay to the Applicant a reasonable rent for any period of unlawful occupation.

14. As at 11 July 2025, the rent payable under the PRT was £1,000.00 per calendar month. This equates to rate of £32.88 per day. A sum equivalent to a reasonable rent for the Property in respect of the period from 11 July 2025 is therefore £32.88 per day.

Position of the Respondent

15. The Respondent accepted that a PRT was entered into with the Applicant; with himself and his then partner Ms Robyn Callow, being joint tenants, in respect of the Property, on 29 March 2024.

16. In or around late June 2025, following the breakdown of that relationship, discussions took place with the landlord/agent about the possibility of ending the joint tenancy by mutual agreement and replacing it with a new tenancy in the Respondent's sole name. In that context, the landlord produced the MAET document. In the final

days prior to the proposed termination date, the Respondent expressly disputed the landlord's position that the tenancy would simply end on that date. He stated that he did not agree to vacate the Property and did not accept that the MAET was being implemented in the manner asserted. The MAET was not implemented in practice. At no point did he vacate the Property, surrender possession, return keys, hand the Property back, complete any formal handover or check-out process, or otherwise give up occupation. He has remained living at the Property continuously throughout. After the MAET discussions, he was not served with any valid statutory notice ending the PRT, including any valid Notice to Leave addressed to him and served in accordance with the requirements applicable to private residential tenancies. No lawful eviction process was completed. Accordingly, he maintained that the PRT had never been lawfully terminated, whether by completion of a valid surrender, by service of a valid statutory notice followed by tribunal order, or by any other due legal process, and he remained in occupation as a tenant.

17. Given the dispute between parties the case required to proceed to a Hearing.

18. Ms Smith said that she may require to lodge a witness statement for the landlord along with further documentation to support the witness statement. She envisaged calling the landlord only as a witness in the Hearing.

19. The Respondent intended to give evidence himself. He did not intend to call any other witnesses.

20. The case was adjourned to a Hearing on 6 July 2026.

21. On 29 June 2026, the Applicant lodged additional documents to be relied upon; -

- Email from Ms Callow to the Applicant dated 24 June 2025 at 20:08
- Email from the Applicant to Ms Callow dated 26 June 2025 at 12:39
- Email from the Applicant to Mr Huddleston dated 26 June 2025 at 15:15
- Email from Mr Huddleston to the Applicant dated 2 July 2025 at 15:21
- Email from Mr Huddleston to the Applicant dated 8 July 2025 at 11:37
- Email from Mr Huddleston to the Applicant dated 11 July 2025

They also lodged a signed witness statement from Charlotte Hingston dated 29 June 2026

The Hearing 6 July 2026

22. A Hearing took place by teleconference on 6 July 2026. The Applicant was represented by Ms Lauren Smith solicitor, Brodies LLP. The Respondent was present, supported by his partner Ms Amy Hamlett.

Evidence of Mrs Charlotte Hingston, Land Manager for the Applicant (Summary)

23. Mrs Hingston said that the Respondent had rented the Property subject to a PRT which began 29 March 2024. This was a joint tenancy together with Ms Robyn Callow. On 24 June 2025, Ms Callow emailed the Applicant's estate office to inform them her relationship with the Respondent had come to an end. She said she had been asked to leave the Property by the Respondent and needed somewhere to live. Ms Callow

emailed the Estate Office on 26 June 2025 stating: "Please take this email as written notice for the termination of our joint tenancy". Mr Huddlestone was copied into that email. She asked the Applicant to contact the Respondent to discuss a new tenancy agreement for the Property in his sole name.

24. The Applicant contacted the Respondent by email on 26 June 2025 to check his relationship had come to an end, and that Ms Callow would be moving out of the Property. He replied on 27 June 2025 to confirm he was requesting the "current contract for [the Property] to be terminated and proceedings for a new tenancy be started with [himself] as sole tenant."

25. In the Applicant's response, they made it clear that neither the Applicant nor the Respondent were committed to a new tenancy until a tenancy agreement had been signed. The Applicant repeatedly made it clear to the Respondent by email and by letter that a new tenancy was not guaranteed until a tenancy agreement had been signed. The Applicant's policy is that a tenancy can only be granted to a sole tenant if that individual can provide a suitable guarantor.

26. Neither Ms Callow nor the Respondent had suggested an end date for the tenancy, so the Applicant emailed both tenants on 27 June 2025 to ask if 11 July 2025 would be an acceptable termination date. In their email to the Respondent, the Applicant emphasised that neither the Applicant nor he as the prospective tenant was committed to a tenancy until a tenancy agreement had been signed.

27. The Respondent responded by email on 27 June 2025 to confirm 11 July 2025 worked for him. Termination of the tenancy was initiated by Ms Callow and the Respondent and not by the Applicant. Prior to the email from Ms Callow on 24 June 2025, the Applicant had had no prior discussions with either tenant about their desire to end the tenancy.

28. Around the 24 June 2025, the Applicant understood the Respondent had travelled to Germany to stay with a friend (and was not residing at the Property), so they emailed him a copy of the MAET on 27 June 2025. Prior to his departure for Germany the Respondent did not contact the Estate Office to inform them of a change of circumstances.

29. Ms Callow also received a copy of the MAET and the Applicant informed her she would need to sign this document before the Applicant could find her somewhere else to live. Ms Callow was on holiday on the Isle of Skye at the time, so it was easier for her to sign a hard copy and send it to the Applicant. This was why there were separate signatures on each document – both Ms Callow and the Respondent were in separate locations when they signed. The Applicant received a copy from the Respondent on 2 July 2025 with a digital signature, and this copy was dated 2 July 2025.

30. The Applicant first received a copy of the MAET dated 4 July 2025, when it was lodged with the Tribunal by the Respondent. Before that date, the Applicant only held the copy digitally signed by the Respondent on 2 July 2025 and the hard copy signed by Ms Callow on 5 July 2025.

31. The process was initiated by Ms Callow and the Respondent, not the Applicant. After the Respondent digitally signed and returned his copy of the MAET on 2 July 2025, he appears to have signed a further copy, two days later, on 4 July 2025. The Applicant did not pressure the Respondent to sign the MAET. He had time to consider his options. At the point the Respondent signed, the MAET clearly narrated a termination date of 11 July 2025. Once signed, at no point did the Applicant agree to disregard the MAET and continue the tenancy beyond 11 July 2025.

32. The witness stated that she had inspected the Property on 3 July 2025 when it became clear to her there were various breaches of the tenancy agreement. The garden of the Property was being used as a scrapyard, with 8 vehicles, a quad bike, go kart, car batteries, car tyres and old appliances in situ. She said that the Applicant also understood that the Property was being used by the Respondent to run a business, as at least one of the vehicles in the garden had been described to her as a "customer's car". The grass had not been cut for some time, weeds had been allowed to grow, and rubbish had been left in the garden. A number of chickens had also been left at the Property without food and water, one of which was lying dead in a cage with another chicken at the time of her inspection.

33. Due to the condition of the Property, the Applicant decided not to let the Property to the Respondent in his sole name. The Respondent accepted this. In his email dated 8 July 2025, the Respondent said, "If the decision is final, then I'll go quietly and respectfully". The Respondent had obtained a caravan to live in whilst he sought another property to rent in Scotland, and he had packed up his belongings. For some reason, the Respondent subsequently changed his mind, and on 11 July 2025 refused to leave the Property. He did not tell the Applicant's estate office why he had changed his mind, and the Applicant did not ask.

34. The Respondent asked the witness several questions, focussing on why his former partner received a new tenancy and he did not. Mrs Hingston said that after she saw the state of the Property the situation had changed. She felt the Respondent was not the right tenant for the Property, especially with it being a rural property. In addition, Ms Callow's parent had engaged, and Ms Callow was able to provide a guarantor.

35. Mrs Hingston emphasised that an e-mail had been sent to the Respondent saying that he was not guaranteed a new tenancy. She said that the reason for the breakup of the relationship between Ms Callows and the Respondent was personal to the couple involved, and not something that the landlord needed any information about. She said that the date of termination was what was agreed at the time.

Evidence of the Respondent (Summary)

36. The Respondent said his position was, that when he signed the MAET in June 2025, he was obviously trying to remain in the Property, as a sole tenant. He said that Ms Callow knew that. The process he was taken through, was to voluntarily give up the very home he was trying to remain in.

37. He referred to the e-mail which he had sent the Applicant on 11 July 2025, in which he set out that he did not accept the termination of his tenancy as lawful, nor did he accept the basis upon which it was made. He said that the MAET which he signed was

done under extreme stress, during a period of severe mental health vulnerability- and while he was out of the country- after a traumatic event involving his ex-partner. The MAET he contended was obtained without proper time to reflect, independent advice, or defined move-out date, and was not a valid termination. He referred to pressure placed on him to sign the MAET being witnessed by multiple third parties, who could confirm the process was neither calm, voluntary nor fairly explained.

38. He said that he still remained in the Property as no valid Notice to Leave had been served. He intends to remain. He tried to pay rent but this was thrown back at him. He had made repeated attempts to open dialogue with the Applicant. He remains of the view the MAET was unfair. He would not have signed the document had he known all of this would happen. As soon as he was made aware that the MAET was being treated as ending his right to remain in the Property, he disputed that.

39. In cross examination the Respondent accepted the discussions to end the tenancy were not initiated by the landlord. When he was referred to the fact that a new tenancy in his sole name was never guaranteed and this was detailed on e-mails sent to him, the Respondent said that with hindsight he now understood that. At the time he thought this was a simple disclaimer, and that Mrs Hingston had his interests at heart. It was only around the 11 July 2025 he understood what that meant.

40. The terms of the e-mail dated 27 June 2025 from the Applicant to the Respondent were put to the Respondent. He accepted he had received this. This stated; --

'Good afternoon Ryan,

Thank you for your e-mail.

Please could you confirm 11 July is acceptable as a termination date.

Please note that neither myself as landlord nor you as the prospective tenant are committed to a tenancy until the tenancy agreement has been signed.'

41. Thereafter on 27 June 2025, the Applicant wrote to Ms Callows and the Respondent asking them to sign the enclosed MAET. This communication was also put to the Respondent. He accepted this letter detailed in bold; -

'Please note that neither myself as landlord nor you as the prospective tenant are committed to a tenancy until the tenancy agreement has been signed.'

42. The Respondent agreed this was what was stated, but not that he had understood the position.

43. The Respondent accepted he signed a digital copy of the MAET on 2 July 2025 and sent this to the Applicant. He also accepted that along with his productions he lodged a copy of the MAET with a wet signature, dated 4 July 2025.

44. The Respondent accepted he had stated on 8 July 2025, he would vacate the Property but said that it was around that time he gained a better understanding of the situation.

45. He accepted the Applicant had not at any point ever agreed the joint tenancy would continue beyond 11 July 2025. He said that the Applicant had returned his cheque trying to pay rent on 11 July 2025.

46. The Respondent said that he had taken legal advice in respect of demands to leave the Property. He had approached Shelter, Citizens Advice Bureau, and a solicitor in Inverness regarding his position. The only advice he had received was to remain in the Property.

47. He had not taken any legal advice at the time he signed the MAET, only from around the 11 July 2025, and onwards.

48. Following the Hearing, the Tribunal asked each party for written submissions. The Tribunal asked each party to address in their submissions the competency of raising the application entirely under Rule 111, as opposed to Rule 79 of the Rules.

49. On 13 July 2026 both parties lodged written submissions.

50. The Tribunal held a teleconference on 5 August 2026 to discuss the submissions and deliberate.

Findings in fact

51. The Applicant, the Respondent and Ms Robyn Callow entered into a PRT for the Property which commenced on 29 March 2024.

52. The Applicant signed a Mutual Termination Agreement on 27 June 2025 which stated that the tenancy would terminate on 11 July 2025.

53. The Respondent signed a Mutual Termination Agreement on 2 July 2025 which stated that the tenancy would terminate on 11 July 2025.

54. Ms Robyn Callow signed a Mutual Termination Agreement on 5 July 2025 which stated that the tenancy would terminate on 11 July 2025.

55. The tenancy between the Applicant, the Respondent and Ms Robyn Callow came to an end on 11 July 2025.

56. The Respondent continues in occupation of the Property without right or title to do so.

57. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003;

58. The rent payable under the tenancy was £1,000 per calendar month, which amounts to £32.88 per day.

59. The Applicant has not received payment of any rent, or a sum equivalent to rent, in respect of the Property from the Respondent for the period after 11 July 2025.

Reasons for decision

60. The crux of this case is whether the PRT between the Applicant, the Respondent and Ms Callow came to an end on 11 July 2025 in accordance with Sections 48 and 49 of the Private Housing (Tenancies) (Scotland) Act 2016 (**'the 2016 Act'**). That is: did the tenants bring the tenancy to an end by giving the Applicant the requisite notice? The Applicant's position is that the tenants did so. The Respondent does not accept this.

61. This is a situation in which the tenants approached their landlord to end their tenancy. During the hearing, the Respondent admitted that discussions about ending the joint tenancy were initiated by his former partner and joint tenant, Ms Callow. It is not a scenario in which the landlord sought to evict its tenants.

62. Both Ms Callow and the Respondent confirmed in writing to the Applicant that they wished to end the joint tenancy. The Applicant therefore prepared a MAET, in terms of which the tenancy ended on 11 July 2025. As explained by Mrs Charlotte Hingston, this was not a date which was inflexible. The date was suggested by the Applicant and confirmed as suitable by the Respondent and Ms Callow prior to the MAET being issued. It was open to the Respondent to suggest a change to the proposed termination date. He did not do so.

63. Instead, as admitted by the Respondent during the hearing, the Respondent signed the MAET.

64. Section 48 of the 2016 Act states; -

48Tenant's ability to bring tenancy to an end

(1)A tenant may bring to an end a tenancy which is a private residential tenancy by giving the landlord a notice which fulfils the requirements described in section 49.

(2)A tenancy comes to an end in accordance with subsection (1) on the day on which the notice states (in whatever terms) that it is to come to an end.

(3) But a tenancy does not come to an end in accordance with subsection (1) if—

(a)before the day mentioned in subsection (2), the tenant makes a request to the landlord to continue the tenancy after that day, and

(b)the landlord agrees to the request.

(4) In subsections (1) and (3), in a case where two or more persons jointly are the landlord under the tenancy, references to the landlord are to any of those persons.

Section 49 of the 2016 Act states; -

49Requirements for notice to be given by tenant

(1)A notice fulfils the requirements referred to in section 48(1) if—

(a)it is given—

- (i)freely and without coercion of any kind,*
- (ii)after the tenant begins occupying the let property,*
- (b)it is in writing, and*
- (c)it states as the day on which the tenancy is to end a day that is after the last day of the minimum notice period.*
- (2)A notice is to be regarded as fulfilling the requirements referred to in section 48(1), despite its not complying with the requirement described by subsection (1)(c), if the landlord agrees in writing to the tenancy ending on the day stated in the notice.*
- (3) In subsection (1)(c), “the minimum notice period” means a period which—*
 - (a)begins on the day the notice is received by the landlord, and*
 - (b)ends on the day falling—*
 - (i)such number of days after it begins as the landlord and tenant have validly agreed between them, or*
 - (ii)if there is no such valid agreement, 28 days after it begins.*
- (4) An agreement as to the number of days after which a minimum notice period ends is invalid for the purpose of subsection (3)(b)(i) if the agreement—*
 - (a)is not in writing, or*
 - (b)was entered into before the tenancy became a private residential tenancy.*
- (5) In a case where two or more persons jointly are the landlord under the tenancy, references in this section to the landlord are to any one of those*

Section 71 of the 2016 Act states; -

71First-tier Tribunal's jurisdiction

- (1) In relation to civil proceedings arising from a private residential tenancy—*
 - (a)the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),*
 - (b)a sheriff does not have competence or jurisdiction.*
- (2) For the purposes of subsection (1), civil proceedings are any proceedings other than—*
 - (a)the prosecution of a criminal offence,*
 - (b)any proceedings related to such a prosecution.*

65. The Applicant's position is that the MAET fulfils the requirements of Sections 48 and 49 of the 2016 Act, the effect of which was to bring the tenancy to an end on 11 July 2025.

66. The Respondent focussed on the context in which the agreement was signed. He said that he only agreed to end the joint tenancy as he was under the belief he would remain in the Property as the sole tenant.

67. The Tribunal agrees with the Applicant's position. The MAET was given freely and without coercion of any kind. It was dated after the tenant began occupying the let property. It was in writing. The Applicant agreed a termination date of 11 July 2025, which is narrated in the MAET itself.

68. The Respondent sought to end the joint tenancy. His relationship with Ms Callow was at an end. He explained that with hindsight he did not understand the consequences of signing the MAET. That does not amount to coercion. Communication from the Applicant clearly detailed that there was no guarantee of a

future tenancy. The Respondent has now changed his mind and wishes to remain in the tenancy. In his own submissions the Respondent stated,
“I do not ask the Tribunal to find coercion merely because I was abroad, distressed and dealing with a relationship breakdown. Those circumstances form part of the setting, but the stronger issue is the objective meaning of the communications in a process whose known process was that one joint tenant would leave while I sought to remain.”

69. The Tribunal, having had sight of the notice of the Respondent terminating the tenancy was satisfied that the notice met the requirements of section 48(1). In terms of section 48 (2), the effect of the notice was to end the tenancy on the stated date 11 July 2025. The Tribunal having seen the further email correspondence between the parties was also satisfied that there had been no formal agreement by the Applicant for the Respondent to continue to reside in the property after that date. This was clear by the Applicant refusing to accept rent from the Respondent from 12 July 2025 onwards, and from the letter sent by the Applicant’s solicitor to the Respondent dated 31 July 2025 requiring the Respondent to remove from the Property.

70. The Tribunal is satisfied that the PRT ended on 11 July 2025 in terms of S 48 (2) of the 2016 Act. Continued occupancy after that date did not create a new tenancy and did not extend the contractual relationship between the parties. Given the wording of S 48 of the 2016 Act the Respondent was not able to unilaterally revoke the notice he had given to the Applicant and insist on a continuation of the tenancy. The Tribunal grants a declarator as sought by the Applicant that the tenancy ended on 11 July 2025.

71. The Applicant also seeks a sum equivalent to a reasonable rent from 12 July 2025 to the date on which the Respondent vacates the Property, or such other date as the Tribunal considers to be reasonable. The rent formerly due under the tenancy agreement was £1,000 per calendar month. As explained by Mrs Hingston, the Applicant has refused to accept any payments from the Respondent as it would be inconsistent with the position that the tenancy has ended. The Respondent admitted during the hearing that the Applicant has not accepted any rent since 11 July 2025.

72. The Tribunal accepts that the Applicant is entitled to pursue a claim for unjustified enrichment, having concluded that the Respondent is not entitled to occupy the Property since the tenancy terminated on 11 July 2025. This is because the Respondent has occupied and used the Property without title to do so. In the case of *Glen V Roy 1882 10R 239* at 240, the measure of liability is the “*real worth and annual value*” of the subjects. The Tribunal accepts that in this application, being a case of residential subjects, this will be the amount that the owner could have obtained in rent. As the Applicant does not have possession of the Property, the Applicant has therefore suffered a loss and ought to be awarded a sum equivalent to a reasonable rent from 12 July 2025. The date of the Hearing was 6 July 2026, and the date the Tribunal deliberated was 5 August 2026. The Tribunal is of the view that a 12 month period is an appropriate period to calculate a sum to represent reasonable recompense to the Applicant. Accordingly, the Tribunal makes a payment order in the amount of £12,000 representing 12 months at £1,000.

73. During proceedings, the Tribunal asked to be addressed on the competency of seeking an order for removal under Rule 111 of the Rules, rather than Rule 79. There appears to be some confusion, and mixed views, on whether an order to remove a tenant from a property ought to be raised under Rule 111 or Rule 79.

74. Stalker indicates that if a tenant does not leave after a PRT terminates under s48, then an application to the First Tier Tribunal for eviction proceedings “*could be made under r 79 of the Procedure Rules*” (Adrian Stalker, *Evictions in Scotland*, 2nd Edition, page 305).

75. Some Tribunals have determined they have jurisdiction to grant such an application based on Rule 79 (Reference FTS/HPC/EV/24/0872). Other Tribunals have refused to grant an application in respect of private residential tenancies as Rule 79 relates to eviction for tenancies under the Rent (Scotland) Act 1984 and not private residential tenancies (Reference FTS/HPC/EV/23/4393).

76. The Tribunal’s website does also appear to indicate that Rule 79 applies only in relation to regulated tenancy and Part VII contract applications, and not to Private Residential Tenancies.

77. The Applicant in their submission states that amongst this confusion, the Application has been submitted under Rule 111 out of an abundance of caution as this Rule is intended to capture “any other application to the First-Tier Tribunal” in which the First Tier Tribunal has jurisdiction.

78. It is not disputed that the Tribunal has jurisdiction to hear this application in terms of Section 71(1) of the 2016 Act, which confers on the Tribunal whatever competence and jurisdiction a sheriff would have in relation to civil proceedings arising from a PRT.

79. This Tribunal does not accept that Rule 79 is the appropriate route for the application. This Tribunal agrees with the rationale detailed in the decision FTS/HPC/EV/23/4393. Rule 79 relates to eviction for regulated tenancies under the Rent (Scotland) Act 1984 and not to private residential tenancies. Rule 79 comes under the heading in the Rules of ‘Chapter 8, Procedure in respect of regulated tenancy and Part VII contract applications’. That is not applicable here.

80. Furthermore Section 23(1) of the Rent (Scotland) Act 1984 (‘the **1984 Act**’) states:

Where any premises have been let as a dwelling under a tenancy which is not a statutorily protected tenancy within the meaning of this Part of this Act or a right of a kind to which Part VII of this Act applies to use a dwelling-house has been granted before or after the commencement of this Act and—

(a) the tenancy or, as the case may be, the right to use (in this Part of this Act referred to as the former tenancy) has come to an end; but (b) the occupier continues to reside in the premises or part of them; [subject to section 23A,] it shall not be lawful for the owner to enforce against the occupier, otherwise than by proceedings in the [First-tier Tribunal], his right to recover possession of the premises.

81. Section 23(1) of the 1984 Act applies to this application. A “statutorily protected tenancy” is a defined term which is a “protected tenancy” or one which is subject to a discrete list of legislation. The tenancy is not a statutorily protected tenancy within the meaning of the 1984 Act, or a Part VII tenancy, and so s23(1) applies.

82. The Tribunal determined that, as the tenancy had terminated on 11 July 2025, the Respondent no longer had any right or title to occupy the Property. The Respondent continued to reside in the Property. The Applicant in this case requires a formal conclusion to the occupancy of the Property by the Respondent. The Applicant is entitled to an order for possession under section 23 of the 1984 Act.

83. The decision was unanimous.

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.

Yvonne McKenna

Yvonne McKenna

Legal Member

5 August 2026

Date