



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 (“the Act”)

Chamber Ref: FTS/HPC/EV/26/0054

Re: Property at 89A New Road, Ayr, KA8 8DD (“the Property”)

Parties:

ANPAS Residential Limited, 1 London Road, Ipswich, IP1 2HA (“the Applicant”)

Mr John Dobie, 89A New Road, Ayr, KA8 8DD (“the Respondent”)

Tribunal Members:

Fiona Stephen (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for eviction should be granted against the Respondent in favour of the Applicant. The Tribunal ordered a delay in execution of the order until 18 September 2026 in terms of Rule 16A (d) of the Procedure Rules.

Background

1. By application dated 7 January 2026, the Applicant sought an order for eviction under section 51 of the Act and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the procedure rules”). On 26 February 2026 the application was accepted by the Tribunal and referred to it for determination. This application has been conjoined with application FTS/HPC/CV/26/0055 which seeks a payment order relating to rent arrears.
2. A Case Management Discussion (CMD) was set to take place on 22 July 2026 at 10am by teleconference call.

3. A copy of the application was served on the Respondent by Sheriff Officers conform to execution of service dated 16 June 2026. The Respondent was required to submit any written representations in response to the application by 6 July 2026. No written representations were lodged.
4. On 3 July 2026, the Tribunal received further written submissions, Affidavits and a revised Form F (in respect of application FTS/HPC/CV/26/0055) with an updated rent statement from the Applicant's solicitor.
5. The Tribunal had before it:
 - i. The Application Form E;
 - ii. A tenancy agreement between the Applicant and Respondent relating to the Property commencing on 1 March 2024;
 - iii. Confirmation from the Scottish Landlord Register that the Property is registered in the name of James Jeffreys as agent for the Applicant; and
 - iv. Case Papers.

Case Management Discussion

6. A CMD took place on 22 July 2026 at 10am by teleconference call. Mr Ferry, Solicitor, Wallace Hodge, Solicitors, 6 Burns Statue Square, Ayr appeared for the Applicant. There was no appearance by the Respondent although the Tribunal delayed the start of the CMD by a few minutes in case he appeared.
7. Mr Ferry confirmed that he was relying on his written submissions and supporting documents, including Affidavits from Mr John O'Donnell, director of the Applicant and Mr James Jeffreys, director of Fort Property Limited, 46c Burns Square, Ayr who manages the Property on behalf of the Applicant. Mr Ferry confirmed that the Applicant was seeking eviction, principally on the basis that the Applicant required to refurbish the Property under Ground 3 of Schedule 3 of the 2016 Act although the application also proceeded on the basis that the Respondent was in rent arrears of 3 months or more under Ground 12.
8. Following conclusion of the CMD, Mr Ferry confirmed to the Tribunal that the Applicant wished to withdraw the payment action FTS/HPC/CV/26/0055. This was done administratively. Whilst Mr Ferry made submissions in relation to rent arrears at the CMD, it is no longer necessary to record these as the application proceeds on Ground 3 alone.
9. Mr Ferry submitted that the Property required extensive refurbishments to bring it up to standard and the Respondent cannot continue to occupy the Property whilst those take place. The last inspection of the Property was carried out about 2 months ago by Mr Jeffreys. The Respondent is not caring for the Property. He is a hoarder and allowing refuse to build up. Neighbours have complained of vermin and it appears the state of the Respondent's

property is the cause. The cost of repairs to the Property is estimated at £10,000. There is no reason why the Respondent should not give up possession and the application is not opposed by him.

10. Mr Ferry submitted that there was no reason to delay granting the order for eviction today, that the Tribunal has sufficient information to establish Ground 3 and that it is reasonable to grant the order sought.
11. The Tribunal asked Mr Ferry to provide further detail regarding the refurbishment works. Mr Ferry submitted that it was difficult because the Property was in such a state of disrepair. The schedule of works that had been provided was based on works done to a neighbouring flat owned by the Applicant. Those were the minimal amount of works required and there may be more which would not be known until the Applicant gained access to the Property. The Tribunal had noted the extent of the works shown in Mr O'Donnell's Affidavit. The Tribunal asked if the Applicant could not "work round" the Respondent. Mr Ferry explained it is a one bedroomed flat and the works required, which include complete redecoration, could not be done whilst the Respondent is living there. Whilst some of the items included in the schedule of works are, on the face of it, quite small, for example, changing a toilet seat, taken together, it would be very difficult for the Respondent to remain in the Property whilst those are carried out.
12. The Tribunal asked if the Applicant had any information relating to the personal circumstances of the Respondent. Mr Ferry submitted that the Respondent was of pension age, retired and an ex-serviceman. Mr Ferry was not aware of any vulnerabilities but given the level of hoarding that is taking place, it may be that the Respondent has some mental health issues. Mr Jeffreys from Fort Property has tried to speak to the Respondent about the tribunal application but he does not respond. The Applicant is not aware if the Respondent has any family or others to assist him.

Findings in Fact

13. The Property was let to the Respondent under a Private Residential Tenancy Agreement between the Applicant and the Respondent commencing on 1 March 2024.
14. The agreed monthly rental was £350.00 per calendar month commencing on 1 March 2024.
15. The Applicant competently served a notice to leave on the Respondent dated 23 July 2025 in terms of grounds 3 and 12 of Schedule 3 of the Act. Said notice was served by Sheriff Officers on 25 July 2025 conform to execution of service of the same date. The notice became effective on 21 October 2025. The notice informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act.

16. The Applicant no longer insists on proceeding with this application on the basis of Ground 12 of Schedule 3 of the Act.
17. The Applicant's property agent last contacted the Respondent 2 months ago to discuss the grounds of this application, but the Respondent has not engaged with him.
18. The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003;
19. The Property is a one bedroomed flat.
20. The Respondent is a retired ex-serviceman.
21. The Respondent lives in the Property on his own.
22. The Respondent is keeping the Property in a very untidy condition to the extent that the Applicant has received complaints from neighbours about its condition and the presence of vermin.
23. The Respondent is hoarding items in the Property.
24. The Property needs significant refurbishment works.
25. The Applicant has provided a list of the works required.
26. At present, the anticipated works are as follows:
 - a) Fully clean and scrub fixtures as best as possible, algae wash where required. Items will be replaced if they are not able to be cleaned satisfactorily.
 - b) Fix and repair ceilings throughout.
 - c) Test all electrical fixtures, heating, shower, water heater.
 - d) Check all kitchen units for operational, drainage, check all doors and ironmongery for operational.
 - e) Check laminated flooring for damage and replace if required.
 - f) Test windows and repair if required.
 - g) Fit new bathroom light.
 - h) Fit new pendants to all areas.
 - i) Fit new toilet seat.
 - j) Fit new toilet roll holder.
 - k) Fit new bathroom taps and kitchen mixer.
 - l) Fit new smoke detectors.
 - m) Fully paint full flat including timber fixtures, colour white throughout. All walls and ceilings.
 - n) Fit new bedroom carpet.
 - o) Fit new vinyl in the kitchen and bathroom.
 - p) Complete all silicone work in the kitchen and bathroom.
 - q) Electric towel radiator to be replaced.
 - r) Replace all louver bedroom cupboard hinges.
 - s) Replace lounge light switch.
 - t) Replace all kitchen kick boards.

27. The works are similar to works carried out to the Applicant's property at 89D New Road, Ayr in accordance with the estimate provided by Handyman Building and Renovations which has been produced.
28. The list of works is incomplete as the exact scope of the works cannot be ascertained until the Applicant gains access to the Property and it is cleared of the Respondent's personal effects.
29. The works will be significantly disruptive to the Property.
30. The repairs to the Property will cost around £10, 000.00.
31. The basis for the order for possession on ground 3 of Schedule 3 of the Act is established.

Reasons for Decision

32. The order for possession sought by the Applicant was based on grounds specified in the Act. Grounds 3 and 12 of Schedule 3 of the Act were properly narrated in the notice to leave served on the Respondent. The Tribunal was satisfied that notice had been served in accordance with the terms of the Act. Following conclusion of the CMD, Mr Ferry confirmed to the Tribunal that the Applicant wished to withdraw the payment action FTS/HPC/CV/26/0055. This was done administratively. The application proceeds on Ground 3 alone. The Tribunal is satisfied that the Applicant is entitled to seek recovery of possession on this ground.
33. The Tribunal accepted the evidence provided by the Applicant in relation to the repairs required to the Property. This was supported by an estimate of works contained in the Affidavit of Mr O'Donnell (set out at paragraph 26 above) and from an estimate of works from Handyman Building and Renovations in respect of the property at 89D New Road, Ayr owned by the Applicant.
34. The Tribunal accepted the evidence of the Applicant that it will need to undertake refurbishment works, which will be significantly disruptive, to the Property and that it would be impracticable for the Respondent to continue to occupy the Property given the nature of those works.
35. The ground for eviction based on the Applicant's intention to refurbish is established.
36. Since 7 April 2020, in terms of changes made initially by the Coronavirus (Scotland) Act 2020 and then by the Coronavirus (Recovery and Reform) (Scotland) Act 2022, an eviction order on ground 3 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
37. The Tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that

might dispose the Tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson* [1942] 2 All ER 653 at 655 in which Lord Green MR said in an often quoted passage:

“In considering reasonableness...it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad common sense way as a man of the world and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account.”

38. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and weigh the various factors which apply to the parties.
39. In this case the Tribunal finds it is reasonable to grant the order. The balance of reasonableness is weighted toward the Applicant for the following reasons:
40. Significant repairs are required to the Property which will be disruptive. Given this is a one bedroomed flat it will not be possible for the Respondent to remain in the Property whilst these are taking place. It is likely that further works will be necessary which the Applicant cannot ascertain until it gains access to the Property. The estimate of the cost of repairs is high.
41. The Respondent has not engaged with the Tribunal process despite having an opportunity to do so.
42. Given the Respondent's personal circumstances, the Tribunal considered it appropriate to delay enforcement of any eviction order until 18 September 2026 which is an extension of approximately one month beyond the usual timescales. This should give the Respondent an opportunity to engage with the local authority or other providers and seek alternative accommodation.
43. The Tribunal decided to exercise the power within rule 17 of the procedure rules and determined that a final order should be made at the CMD.

Decision

The Tribunal makes an order for eviction of the Respondent, Mr John Dobie from the Property at 89A New Road, Ayr, KA8 8DD, enforcement of which is to be delayed until 18 September 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.

F.Stephen

Legal Member/Chair

Date: 22nd July 2026