



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

Chamber Ref: FTS/HPC/EV/25/2687

Re: Property at 30 Maple Road, Holytown, ML1 4SD ("the Property")

Parties:

Mr Jeremy Finn, 4 Shirehall Park, London, NW4 2QL ("the Applicant")

Ms Tracey Anne Brown, 30 Maple Road, Holytown, ML1 4SD ("the Respondent")

Tribunal Members:

Hilary Macandrew (Legal Member) and Robert Buchan (Ordinary Member)

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Eviction Order be refused and the Application dismissed.

1) Background

- 1.1 On 19th June 2026 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
- 1.2 Throughout the sifting process the Applicant's agent was asked for details of the tenancy agreement or tenancy between the parties. The agent confirmed that they had taken over the management from another agent in 2018 and they did not have a copy of the tenancy agreement. The Agent confirmed that they had sent a Private Residential Tenancy Agreement to the Respondent, but she had not signed and returned it. The Application was put forward to a Case Management Discussion and the Applicant's agent was told that they would

require to make further submissions to the tribunal at the case management discussion on the terms of the tenancy agreement between the parties and the Page 65 validity of the method of service of the notice to leave in view of the issues previously raised by the legal members.

- 1.3 The Application was served on the Respondent by Sheriff Officers on 12th March 2026.
- 1.4 The first Case Management Discussion ("CMD") took place by teleconference on 28th April 2026. The Applicant was represented by Miss Randall of Independent Mortgage and Property Services. The Respondent represented herself.
- 1.5 The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. Miss Randall sought an order for eviction in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 21016. She said that the rent arrears are currently £7939.63
- 1.6 The Respondent said that she was opposed to the eviction being granted. She was not disputing the level of arrears but said that there had been an issue with Universal Credit. She was intending to pay off the arrears herself in instalments. The Respondent said that she had lived in the property since 2015. She said that there was a lot wrong with the property and a lot of repairs were required. She said that she has a tenancy agreement which she got when she moved in. She will look for it. She said that she has never signed any other tenancy agreement in relation to the property.
- 1.7 Miss Randall said that a PRT had been sent to the Respondent, but she had not signed and returned it. Miss Randall's firm had taken advice from the Scottish Association of Landlords, who had told them that as the PRT was not signed and returned they could not rely on it. The Chairperson pointed out that it was looking as if the Applicant's agent had served the wrong notice (Notice to Leave) and it was likely that the tenancy, having been entered in to in 2015, was either a Short Assured Tenancy or an Assured tenancy, which require completely different notices to bring them to an end.
- 1.8 It was decided to continue the CMD so that the Applicant could consider whether or not to withdraw the application on the basis that the wrong notice had been used, and for the Respondent to make proposals in relation to the arrears, to produce a copy of the tenancy agreement and to lodge a Written Statement regarding the repairs.
- 1.9 A Direction was issued dated 28th April 2026 requiring the Respondent to provide a copy of the tenancy agreement and a written statement regarding the repairs she alleges are required

2) The Continued Case Management Discussion ('CCMD')

- 2.1 The CCMD took place by tele conference on 16th September 2026. The Applicant was represented by Miss Kennedy The Respondent was neither present nor represented. The start of the Tribunal was delayed by a few minutes to give the Respondent time to take part. She did not.
- 2.2 In advance of the CCMD the Applicant had lodged further Submissions regarding the increase in arrears of rent. The were currently £9,534.65.
- 2.3 The Applicant had also lodged photographs showing the exterior of the property. The Respondent had lodged a written submission setting out alleged faults with the property and she too had submitted photographs showing the interior of the property. In response to the Respondents Submission the Applicant had lodged a submission refuting the Respondent's submission.
- 2.4 The Respondent had not lodged a copy of the tenancy agreement she had referred to at the CMD. The Applicant sought the Eviction Order based on Ground 12 of Schedule 3 of the Act.
- 2.5 The Chairperson asked Miss Kennedy to address the Tribunal on the terms of the Tenancy and the validity of the Notice to Leave. Miss Kennedy accepted that a PRT had not been entered into and that accordingly the wrong notice seeking to bring the tenancy to an end had been served.
- 2.6 Rule 17 of the First-Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 provides that the Tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a hearing.

3) Findings in Fact and Law

- 3.1 The Tenancy is not a Private Residential Tenancy.
- 3.2 The Notice to Leave, served by the Applicant was wrong.
- 3.3 The Application accordingly falls to be refused and the case Dismissed

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.



Legal Member/Chair

Date: 16th September 2026