



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/26/1360

Re: Property at 30 3F2 Kirk Street, Room 5, Edinburgh, EH6 5EZ (“the Property”)

Parties:

Mr Peter Aslet, Mrs Linda Aslet, 104 Ravelston Drive, Edinburgh; 104 Ravelston Dykes, Edinburgh, EH12 6HB (“the Applicants”)

Mr Kyle Scott, 30 3F2 Kirk Street, Room 5, Edinburgh, EH6 5EZ (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Greig Adams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 of schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

- **Background**
 1. An application was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of rent arrears accrued by the Respondent under a private residential tenancy, being Ground 12 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).
- **Case Management Discussion**
 2. A Case Management Discussion (“CMD”) took place on 5 October 2026 by telephone call. The Applicant was represented by Ms Young of Rockford

Properties. The Respondent attended and represented himself. No written response to the application had been lodged by the Respondent prior to the CMD.

3. A separate application seeking a payment order in relation to rent arrears under case reference FTS/HPC/26/3601 was heard at the same time.
4. The Applicant's representative moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement ("the Agreement"), which commenced February 2020. Rockford Properties had taken over management of the tenancy in December 2021. The Respondent had been in arrears of rent since October 2025. A Notice to Leave had been served on the Respondent on the basis of Ground 12 of Schedule 3 to the 2016 Act, on 16 February 2026. The arrears at the date of the CMD stood at £4,966.01. A previous payment order had been granted against the Respondent in favour of the Applicants by the First-tier Tribunal in February 2026 in respect of rent arrears in the sum of £1,226.01. The Respondent had made payments each month in the sum of £115 towards the debt due under said order, but nothing had been paid to the ongoing rent of £695 per month which continued to fall due.
5. The Respondent submitted that the last time he had paid rent was in March 2026. He was not sure what the current rent arrears figure was. He has not been paying rent in order to save up enough money to be able to move into another property. The Respondent confirmed that he had saved around £1700 from his non-payment of rent to the Applicants. The Respondent submitted that he is a self-employed freelance project manager and is involved in management of holiday lets. He earns around £38-40k per annum. It was submitted that he could not afford the current monthly rent, which had increased since the tenancy commenced. The Respondent proposed that he could commence making payment of rent plus £300 towards the arrears. The Respondent submitted that he had sought information from the letting agents regarding an issue with council tax payments but had received no response.
6. The following documents were lodged alongside the application:
 - (i) Copy Private Residential Tenancy Agreement
 - (ii) Copy Notice to Leave
 - (iii) Proof of service of the Notice to Leave
 - (iv) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
 - (v) Rent statement
 - Findings in Fact
7. The Tribunal made the following findings in fact:

- (i) The parties entered into a Private Residential Tenancy Agreement (“the Agreement”) which commenced on 15 February 2020;
- (ii) In terms of Clause 8 of the Agreement the Respondent was due to pay rent to the Applicant in the sum of £695 per calendar month payable in advance, an increase on the original rent of £350 per month;
- (iii) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 12 of Schedule 3 to the 2016 Act, and which was served on 16 February 2026;
- (iv) The Respondent has been in continuous arrears of rent since October 2025;
- (v) The Respondent is in arrears of rent amounting to £4,966.01 at the date of the CMD.

- Reasons for Decision

8. Section 51 of the 2016 Act states as follows:

51 (1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

9. Ground 12 of Schedule 3 to the 2016 Act states as follows:

(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.

10. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act. The Tribunal was satisfied that the terms of Ground 12 of Schedule 3 to the 2016 Act had been met, namely that the Respondent has been in continuous arrears of rent for at least three months up to and including the date of the CMD. The Tribunal was satisfied that there was no information before it to suggest that the tenant's being in arrears of rent over that period was either wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

11. The Tribunal was satisfied that it was reasonable to grant the Order sought. The Respondent had been in arrears of rent since October 2025. A previous payment order was granted against the Respondent for rent arrears in February 2026. Despite this, the Respondent has failed to meet ongoing payment of rent. The Tribunal was satisfied that the Respondent was well aware of the consequences of his continued failure to pay rent lawfully due. The Respondent stated that he was saving money to move out of the Property. However, he submitted that he had only saved around £1700, despite having failed to pay arrears of £4,966.01. No explanation was given as to where the remaining money had gone. The Tribunal noted the Respondent's offer to make payment of ongoing rent plus £300 towards the arrears, however the Respondent had already stated that he could not afford the current rent of £695 and he was looking to move to an alternative property. No evidence had been lodged nor offered by the Respondent as to his current financial position, his income and expenditure, and how financially this proposal could be adhered to in practice. No explanation was given as to why he had failed to make any efforts to make payment of rent prior to the CMD nor why such an offer had not been made prior to the CMD. The Tribunal was not satisfied that the proposal made by the Respondent was sustainable or realistic.

- Decision

12. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Fiona Watson

Legal Member/Chair

Date: 5 October 2026