

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71(1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/26/1495

Re: Property at 12/1 Moncrieff Terrace, Edinburgh, EH9 1NA (“the Property”)

Parties:

**Mrs Alice Chute, Mr John Chute, Inveresk House, Inveresk Village, Musselburgh,
EH21 7UA (“the Applicant”)**

**Mr Fraser Gray, 12/1 Moncrieff Terrace, Edinburgh, EH9 1NA (“the
Respondent”)**

Tribunal Members:

Hilary Macandrew (Legal Member) and Mary Lyden (Ordinary Member)

Decision in absence of the Respondent

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an Eviction Order be granted.**

1) Background

- 1.1 By Application dated 2nd April 2026 the Applicant sought an order under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016
- 1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 19th May 2026.
- 1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 18th August 2026.

1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-

- Private Rental Tenancy agreement
- Notice to Leave ('NTL') and proof of service
- Pre Action Requirements Correspondence
- Copy Bank Statements showing rent payments
- Section 11 Notice
- Statement of Rent Arrears
- Third Party correspondence regarding Respondent's conduct

1.5 A Case Management Discussion was set to take place on 12th October 2026. Intimation was given to the Respondent by Sheriff Officers on 18th August 2026

2) The Case Management Discussion

2.1 The CMD took place by tele conference on 12th October. The Applicants represented themselves. The Tribunal delayed starting for five minutes for the Respondent to take part. The Respondent was neither present nor represented.

2.2 The Applicant sought the Eviction Order based on Ground 12 of Schedule 3 of the Act.

2.3 Mr Chute spoke for himself and Mrs Chute. He asked the Tribunal to grant the Eviction Order. The Private Rental Tenancy started on 1st May 2025. The monthly rent agreed was £1300 per month. No deposit was sought or paid. The Respondent fell into arrears on 2nd July 2025. They were cleared by 11th September 2025. He fell into arrears again on 1st October 2025 and has been continually in arrears since 1st October 2025. When the Notice to Leave was served on 20th February 2026, the arrears stood at £3850. At the date of the Tribunal the arrears stood at £12,725. The rent statement demonstrated that the Respondent had been in arrears of rent by an amount equal to or greater than the equivalent of one month's rent under the tenancy and had been in arrears for more than three or more consecutive months.

2.4 Mr Chute demonstrated that he had continually corresponded with the Respondent alerting him to the level of arrears and seeking payment since the arrears accrued. The Respondent has not and is not engaging. Furthermore, the Respondent's conduct of the tenancy is creating concern for neighbours who are being disturbed by the Applicant's lifestyle of socialising and parties. Mr Chute receives complains which he evidenced to the Tribunal. The arrears are significant and the Applicants are suffering from a loss of income to apply towards maintenance and upkeep of their portfolio of rental properties.

2.5 Mr Chute was asked about the personal circumstances of the Respondent. He stated that he is an academic at university. He is a PHD Graduate. He had formerly lived in student accommodation, and no references had been taken on the basis that he would have required to have paid student rent in full to the

University before he graduated. It was assumed he had and could maintain rental payments. He is aged around 30 and single. The property is a 2-bedroom flat in a tenement block. The Respondent has co-operated with the statutory inspections. He is not believed to have any vulnerability or disability. There is no information to indicate he has received state benefits or has any issue with benefits which may have impacted on his payment of rent. He is not engaging with the Applicants regarding the rent arrears and regarding the complaints from third parties. It is not known if he has sought support from any alternative housing agency.

- 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 CMB 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 agreement is a Private Rental Tenancy Agreement which commenced on 1st May 2025.
- 3.2 On 20th February 2026 the Applicant served Notice to Leave on the Respondent under Ground 12 of Schedule 3 to the Act. The Notice to Leave became effective from 22nd March 2026. The Notice was correctly drafted and provided sufficient Notice.
- 3.3 The Respondent had been in arrears of rent by an amount equal to or greater than the equivalent of one month's rent under the tenancy and has been in arrears for more than three or more consecutive months.
- 3.4 The basis for the Order for possession was accordingly established.

4) Issue For the Tribunal

- 4.1 The issue for the Tribunal is to determine whether it is reasonable to grant the Order.
- 4.2 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah 1943 SC 245* whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the Application was made.
- 4.3 The Tribunal found that the Applicant is entitled to recovery of the property. The Tribunal had regard to the significant level of rent arrears. The Respondent has not engaged with the Applicant nor with the Tribunal process. The Applicant has tried to engage with the Respondent by correspondence. The Respondent is a single man living in a two bedroom flat. He is believed to be an academic at University and there is no indication of any issue with state benefits, The

Applicants are concerned about his conduct of the tenancy having had several complaints from third parties. The Respondent has not engaged with the Tribunal process. The Tribunal places weight on the significant arrears and the circumstances of the Applicants.

- 4.4 Accordingly, the Tribunal was satisfied that it is reasonable to grant an order for eviction.

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.

H Macandrew

12th September 2026

Legal Member/Chair

Date