Housing and Property Chamber
First-tier Tribunal for Scotland

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/25/3231

Re: Property at 51 Broomhill Wynd, Monifieth, Dundee, DD5 4RE ("the Property")

Parties:

Hillcrest Enterprises, 1 Explorer Road, Dundee Technology Park, Dundee, DD2 1EG ("the Applicant")

Miss Sandie Spalding, 51 Broomhill Wynd, Monifieth, Dundee, DD5 4RE ("the Respondent")

Tribunal Members:

Steven Quither (Legal Member) and Sandra Brydon (Ordinary Member)

DECISION

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") UNANIMOUSLY determined to grant the order for possession sought by the Applicant.

BACKGROUND

1. This is an application dated and lodged on 29 July 2025 to bring to an end a Private Residential Tenancy ("PRT") between Hillcrest Enterprises (sic) and the Respondent in respect of the Property commencing 15 June 2020 and at an initial rent of £543-46 per month, subsequently increased to £601-82 per month from 1 August 2024 and then £631-31 per month from 1 August 2025.
2. By Lease commencing 1 April 2021, Hillcrest Homes (Scotland) Ltd leased to the Applicant various properties, including the Property. It is not clear from the casefile whether Hillcrest Homes (Scotland) Ltd acquired the Property from Hillcrest Enterprises between the date of the PRT and the date of said Lease or whether the PRT either erroneously or as a trading name referred to Hillcrest Homes (Scotland) Ltd as Hillcrest Enterprises. In any event, the Applicant acquired the Property by virtue of said Lease, as hereinafter referred to.

3. The Tribunal accepted the application by Notice of Acceptance of 12 August 2025 and a Case Management Discussion ("CMD") was duly fixed for 20 January 2026.
4. Prior to the CMD, preliminary consideration of the supporting documentation for this application confirmed email service of Notice to Leave dated 7 February 2025 on the Respondent on the same date, based on the Respondent then being in rent arrears over 3 consecutive months (Ground 12 of Schedule 3 of the Act).
5. Said consideration also confirmed that when this application was lodged, outstanding rent arrears were £4014-56 and that letterbox service of the application and associated documentation was made on the Respondent by sheriff officers on 26 November 2025.
6. Furthermore, on 23 July 2025, the appropriate local authority was notified of the application in terms of s11 of the Homelessness etc. (Scotland) Act 2003.
7. Pre-action requirements appeared to have been complied with to some extent by notes contained in the Notice to Leave previously referred to and also by the terms of correspondence to the Respondent dated 25 July, 13 August, 18 September and 5 November, all 2024 and 9 and 21 January and 6 February, all 2025 bringing to the Respondent's attention outstanding rent arrears and with advice and information as to how to attend to same, either by way of payment or taking further advice;
8. An associated rent arrears application under Tribunal reference CV/25/3232 was also considered at the CMD.

CASE MANAGEMENT DISCUSSION on 20 JANUARY 2026

9. The CMD took place by teleconference and duly commenced shortly after 10am, with the Applicant's representative, Simone Callaghan from TC Young, Solicitors, Glasgow ("TCY") and the Respondent in attendance.
10. By way of submission and in response to questions by the Tribunal Ms Callaghan advised and confirmed:--
    a) The Applicant was seeking the eviction order based on rent arrears, which stood at £5908-49, to which sum she was seeking to amend any reference to rent arrears (which, after clarifying with the Respondent that she had no objection to it doing so, the Tribunal was content to allow under said Rule 13 of the First-Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules"));

b) Notice to Leave was served on 7 February 2025 when rent arrears stood at £3009-10, based on Ground 12 of Schedule 3 of the Act (rent arrears for 3 or more consecutive months), but these had increased to £4014-56 as at the date of the application and now stood at £5908-49 ;

c) Per Rent Statement to 23 July 2025 lodged with the application, the Respondent had been in rent arrears since October 2024 and, in addition, had paid nothing at all in November 2025, also failing to adhere to arrangements made to address same, most recently in September 2025, to pay an additional £355 to arrears as well as paying rent, which broke down almost immediately when the first direct debit payment was not met;

d) Thereafter, the Respondent advised in October 2025 she would pay £3000 but again failed to do so;

e) £1893-93 was paid in December 2025, which was the first rent paid since the middle of the year, but then an arrangement to pay rent + £200 towards arrears in January 2026 failed;

f) The Applicant is a subsidiary of Hillcrest Homes who are social landlords. The subsidiary provides around 1200 mid-market rented properties and depends on rent being paid to maintain services etc.;

g) The Respondent's rent arrears formed just over 3½% of the Applicant's total rent arrears outstanding and was the second highest rent arrears amount outstanding by any tenant; and

h) In all of these circumstances, it was reasonable to make the order for eviction.

11. By way of response, the Respondent advised and confirmed--

a) She did not dispute the rent arrears sum of £5908-49 now stated to be due and could not dispute any of what was stated on behalf of the Applicant;

b) She had had some personal and work related issues over several years which had led her to being off work for 8 months and being prescribed (anti-depressant) Sertraline;.

c) In addition, she had been in a controlling relationship, which had imposed a financial burden on her but had now ended at her instigation. This had added to her difficulties since she had become isolated from friends and family and had failed to face up to her responsibilities;

d) She was 47 years old and had grandchildren aged 1 & 6 whom she saw regularly and who occasionally stayed overnight with her;

e) She was in full-time employment as a social care officer with Dundee City Council and had re-established contact with friends and family who are supportive of her;
f) She could pay the monthly rent of £631-31 and also £200 per month towards arrears;
g) The most recent arrangement failed due to her bank account being £2 short to cover the direct debit;
h) She had been dealing with a Resource Officer from the Applicant, who had helped her with various financial matters;
i) She did not receive benefits, her council tax was paid direct from her wages and apart from normal household expenses, her only other debt was a credit card, to which she paid about £50 per month;
j) She appreciated the difficulty she was in due to previous arrangements not being adhered to but she sought and wished to face up to her responsibilities without losing her home;
k) She had not been in contact with anyone about the possibility of being made homeless; and
l) Prior to the circumstances giving rise to this and the associated application, she had been a tenant with the Applicant for a good number of years without any previous difficulty and she was now seeking a further opportunity to face up to her responsibilities.

12. Following upon hearing from the Respondent, the Tribunal asked Ms Callaghan to seek further instructions from the Applicant regarding the Respondent's proposal. After a short adjournment to enable her to do so, she confirmed that the Applicant was still seeking the eviction order, due to the overall history of non-payment and concerns that any further arrangement would similarly break down, especially against a background of the Applicant having previously provided assistance to the Respondent through payment of a grant.
13. Thereafter, the Tribunal considered whether it was reasonable to grant the eviction order and concluded, with slight hesitation, that it would not be acting justly to do so. It considered all that had been said on both sides and considered the Respondent was now addressing the difficult position she was in, albeit mostly self-inflicted to an extent. Taking into account her willingness to address the rent

arrears, it considered she should be given the opportunity to do so, having shown some goodwill in the past.

14. However, given the level of arrears, it considered it just to make an order for payment in the associated rent arrears case. It considered it appropriate to fix a further CMD in this case to be updated as to payment of the rent and whether what happens in the interim resulted in any change in position of the Applicant.
15. The Tribunal made clear to the Respondent that if she failed to take the opportunity now afforded to her to address her rent arrears, an order for eviction could well be granted at any further CMD. It is also expressed a view that the Applicant would afford her the opportunity of addressing her rent arrears without enforcing the order now granted in the associated application, secure in the knowledge it had the order to fall back on should there be any further difficulty.
16. The parties received oral intimation of the date, time and place of the next CMD on 21 April 2026 at 10am before adjournment of the proceedings.

CASE MANAGEMENT DISCUSSION on 21 APRIL 2026

17. Prior to this CMD, the Tribunal received a further Rent Statement from the Applicant to 16 April 2026, showing that rent for February and March 2026 had been paid, albeit not on the 1st of each month and also that the Applicant had paid a further £200 each month towards arrears. The April rent still appeared due and there appeared to have been some issue with unpaid direct debits for March and April. Rent arrears per said statement now stood at £6139-80, an overall increase of £231-31 from the arrears figure at the previous CMD.
18. The Tribunal had also received a postponement request from the Respondent at 11-18am on 20 April, but had not been able to properly consider same before commencement of the CMD.
19. The CMD took place by teleconference and duly commenced shortly after 10am, again with Ms Callaghan and the Respondent in attendance.
20. The Tribunal asked the Respondent if she was seeking postponement of the CMD, per her request the previous day, but she advised she was now content to proceed.
21. The Tribunal then asked Ms Callaghan what the Applicant's position was. She advised that April's rent + arrears payment of £831-31 had now been received, reducing the overall arrears to £5308-49 and that in these circumstances the Applicant was simply seeking a further CMD to monitor the position further and let

the Respondent continue to make payment of ongoing rent as it became due, as well as continuing to pay the previously discussed figure of £200 per month towards arrears.

22. The Respondent was in agreement with this proposal and further discussion with the parties confirmed they were both content for a further CMD to be fixed for approximately 6 months time.
23. Upon enquiry from the Tribunal, the Respondent advised that the unpaid direct debit issue had simply been due to bank difficulties, which she had hopefully now resolved. The Tribunal advised her to ensure if any rent was to be paid later in the month than its due date, she should advise the Applicant accordingly. Ms Callaghan advised that if that was done, there should be no difficulty with the Applicant.
24. A further CMD was duly fixed for 29 October 2026

CASE MANAGEMENT DISCUSSION on 29 OCTOBER 2026

25. Prior to same, the Tribunal received a further Rent Statement from the Applicant to 13 October 2026, showing that since the previous CMD, rent arrears had increased to £7743-59 from £5308-49 and in addition no rent at all had been paid for July, August, September and October.
26. The CMD took place by teleconference and duly commenced shortly after 10am, again with Ms Callaghan and the Respondent in attendance.
27. Ms Callaghan advised that in view of the increase in arrears and no payment having been made since June, the Applicant was asking for the eviction order to be granted.
28. By way of response, the Respondent advised that she had had a number of personal and practical difficulties since the last CMD, in particular:--
    a) She had arranged with her sister for help organising her finances, but her sister had gone on holiday to Turkey in about July and had become seriously ill there, requiring to have her gall bladder removed;
    b) The Applicant had gone to Turkey to assist and support her sister and family and this had impacted on the arrangement she had with her sister to facilitate payment of rent to the Applicant;
    c) Furthermore, her brother had committed suicide at the beginning of September, resulting in her becoming more distracted from attending to day to day affairs;

d) She appreciated the difficult position she was now in but was seeking a further chance to sort things out in order that she could retain her tenancy;
e) In particular, she was awaiting £4000 from her late brother's estate at about the end of November, which she would use towards payment of rent arrears and then pay rent due + an extra £100 per month till her rent was up to date;
f) She regretted she had not kept the Applicant fully advised on her personal difficulties and would ensure she did so in the future;
g) She would be able to pay the rent of £667-93 + the extra £100 on 1 November and due to now working nightshift and taking on an additional part-time job she would now be able to maintain payments, possibly even paying an extra £200 per month from 1 January 2027;
h) She had other financial commitments in respect of her car, normal household bills, council tax and a credit card, which was nearly paid off;
i) Apart from contacting the Citizens Advice Bureau some time ago, she had not sought any meaningful advice about her difficulties;
j) She had not really looked for alternative accommodation and did not have enough points to be allocated social housing from the Applicant; and
k) She did not have any documentation vouching the sum due to her from her brother's estate.

29. The Tribunal then sought clarification from Ms Callaghan about whether the information provided by the Respondent had changed anything, but she advised that in the absence of any proof of sums coming to the Respondent, her instructions were clear, since previous arrangements had not been adhered to and rent arrears had increased since the previous CMD. She was still asking for the eviction order to be granted.

FINDINGS IN FACT

30. The parties entered into a PRT for the Property commencing 15 June 2020 and at an initial rent of £543-46 per month, which has now increased by rent reviews to £667-93 per month.
31. The Respondent is in rent arrears of £7743-59 as at the date of the CMD. Said sum amounts to more than 1 month's rent. In addition, the Respondent has been in rent arrears for 3 or more consecutive months.

REASONS FOR DECISION

32. The Tribunal was satisfied that arrears of £7743-59 had accrued per the up to date Rent Statement produced by the Applicant to 13 October 2026, that the Respondent had been in rent arrears for 3 or more consecutive months and was in arrears of at least 1 month's rent as at the date of the CMD. Accordingly, the Tribunal was content that Ground 12 founded upon by the Applicant in this application had been established.

33. Also, in view of the increase in rent arrears since the previous CMD and the Respondent's failure to adhere to previous arrangements to address same, the Tribunal considered it just and reasonable to grant the order sought. It appeared to the Tribunal that the Applicant had afforded the Respondent every opportunity to address the question of rent arrears, but she had failed to do so, leaving the Applicant with no option but to seek the order sought.

34. Notwithstanding its decision, the Tribunal clarified with Ms Callaghan that simply because the Applicant had the order did not mean it would be enforced if a further arrangement could be reached and adhered to by the Respondent. It is obviously now a matter for the Respondent to discuss further with the Applicant to ascertain if it might be prepared to assist her further, secure in the knowledge that it has the eviction order for enforcement if any further agreement again falls by the wayside.

DECISION.

35. To grant the order for eviction sought by the Applicant.

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.

Steven Quither

29 OCTOBER 2026

Legal Member/Chair **Date**