



**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/24/2491**

**Re: Property at 24A High Street, New Pitsligo, Aberdeenshire, AB43 6NL (“the  
Property”)**

**Parties:**

**Mrs Alice Walker, Tam Walker, Jack Walker, Ben Sier, 4 Barnhill, Hardthorn  
Road, Dumfries, DG2 9TQ; Airylea, High Green, Gardenstown, Aberdeenshire,  
AB45 3YN; 2A Seatown, Gardenstown, Aberdeenshire, AB45 2YQ; 17 Malvern  
Road, Leytonstone, London, E11 3DJ (“the Applicants”)**

**Mr Thomas Reidy, 24A High Street, New Pitsligo, Aberdeenshire, AB43 6NL  
(“the Respondent”)**

**Tribunal Members:**

**Rory Cowan (Legal Member) and Sandra Brydon (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 should be granted.**

- **Background**

By application dated 31 May 2024 (the Application), the Applicants sought an eviction order relative to the Property in terms of section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (2016 Act). With the Application, the Applicant, lodged various supporting documents which include the following:

- 1) Lease which commenced on 18 February 2018;
- 2) Copy Notice to Leave along with recorded delivery receipt and proof of delivery;
- 3) Section 11 Notice;
- 4) Rent Statement; and
- 5) Pre-action correspondence.

Following acceptance of the Application, a Case Management Discussion (CMD) was fixed for 12 September 2024 to be heard by way of conference call. At that CMD an Alice Walker appeared and represented herself. At that stage the Application was in the sole name of Alice Walker. The Respondent did not appear, nor was he represented. Notwithstanding the Tribunal was satisfied that the Respondent was aware of the Application, the date of the CMD and his requirement to attend and resolved to deal with the Application in his absence. A motion to add Ground 12A to the Application as a ground for possession was refused.

Thereafter that CMD focussed on the question of title to pursue the Application. Based on the information before it at that CMD, the Tribunal could not be satisfied as to the question of title to pursue the Application and whether the Application should be in the name of all purported owners of the Property. Beyond that, there was the issue of entitlement to seek payment and even to serve NTL based on alleged rent arrears that predate their ownership of the Property.

As a result of these issues, the Tribunal determined to continue that CMD to allow the position regarding Title to pursue this Application and/or the rent arrears claimed as well as amendment of the Application to add additional applicants.

Following that CMD, further submissions were received by email dated 27 January 2025 and a further CMD was fixed for 12 February 2025 again to be heard by way of conference call.

- The Case Management Discussion

At the CMD on 12 February 2025 a Benjamin Sier appeared. Despite intimation, the Respondent failed to appear or be represented. Notwithstanding the Tribunal was satisfied that the Respondent was aware of the Application, the date of this further CMD and his requirement to attend and resolved to deal with the Application in his absence.

Mr Sier sought to amend the Application to include the names of all joint owners of the Property, being himself, Alice Walker, Jack Walker and Tam Walker. That motion was granted. He thereafter sought an eviction order under Ground 12 of Schedule 3 of the 2016 Act. The Tribunal had regard to the further submissions sent in on 27 January 2025 which included a copy of title information that, along with the disposition in favour of the Applicants by Kathleen Crawford and a David Kelly demonstrated their title to seek an eviction order in that the Property was transferred to them as at 21 November 2023. Mr Sier indicated that the current arrears due to the Applicants as at January 2025 were £4,950 (being sums due after the Property was transferred to them) but that the total arrears due by the Respondent were £8,580 as no payments had been made by the Respondent since the rent schedule lodged which detailed arrears to May 2024. He confirmed that the Respondent was still in the Property. In terms of the Respondent's circumstances, he explained that, as far as the Applicants were aware, he lived alone, was in his forties, had no children and was not in regular employment. He indicated that there was some mention of a possible heart condition but no specific indication of poor health. In terms of contact, he indicated that they had sought to contact him regarding arrears

by email, by letter and by telephone as well as issue some formal guidance in terms of pre-action requirements for rent arrears cases (he pointed to the letter dated 4 May 2024 in that regard). He also indicated that they had met with the Respondent at a property inspection and there had been discussion about the arrears and a promise to address same as well as a suggestion the Respondent may remove by the end of February 2024 (the letter of 2 February 2024 refers). Notwithstanding, the Respondent has not addressed the arrears (in fact they had worsened) and not removed from the Property. When the terms of the pre-action correspondence were discussed, whilst not specifically mentioned in any of the letters produced, Mr Sier stated that he was “pretty confident” that a copy of the tenancy agreement was also sent to the Respondent with the letter dated 17 January 2024.

- Findings in Fact

- 1) That the Applicants are the heritable proprietor of the Property and have been since 21 November 2023.
- 2) That the Respondent, entered into a tenancy for the Property with the previous owner Kathleen Crawford which commenced on 18 February 2018.
- 3) The monthly rent was £330.
- 4) That on or around 18 November 2023, the Respondent was in arrears of rent to the extent of £3,630.
- 5) That the Respondent has been consistently in arrears since on or around September 2022.
- 6) The last payment made by the Respondent was 28 July 2023.
- 7) That on or around 18 May 2024, the Respondent had accrued further arrears to the extent of £1,980 meaning the total arrears of rent were £5,160.
- 8) That no further payments have been made to account of rent after May 2024.
- 9) By Notice to Leave dated 27 April 2024 intimated by way of recorded delivery the Applicants gave notice to the Respondent of their intention to recover possession of the Property in terms of Ground 12 of the Private Housing (Tenancies)(Scotland) Act 2016 and confirmed that proceedings would not be raised before 28 May 2024.
- 10) That the Applicants have issued correspondence under the Pre-action Requirements dated 4 May 2024 along with other correspondence regarding the arrears.
- 11) That the Respondent is not in employment.
- 12) That the Respondent lives in the Property alone.
- 13) That the arrears have not accrued as a result of any failure or delays in the payment of benefits.
- 14) That the Respondent has failed to engage with the Applicants regarding the arrears or sought to address them.

- Reasons for Decision

The Applicants have complied with the notice requirements under the 2016 Act and there has at least been substantial compliance with the PARs applicable to rent arrears recoveries. Having heard Mr Sier and having considered the relevant circumstances before them, the Tribunal was satisfied that it was reasonable to grant an Eviction Order. Whilst there was no appearance by or on behalf of the Respondent, the Tribunal did seek information from Mr Sier as narrated above. It

was noted that the Respondent lived alone at the Property and appeared not to be in employment. It was also noted that there was no suggestion of an entitlement to any form of benefits that might assist with payment of his rent. The arrears are substantial and continue to accrue. It appeared from the rental statements that the Respondent has made little or no attempt to pay his rent for some time and the last payment was made in July 2023, approximately 1 and half years ago, although there have been persistent arrears since September 2022. It was also noted that the Respondent has failed to engage or respond to attempts to contact him regarding the Property and the arrears of rent. The main factors that weighed against the Respondent were the scale of the arrears, that they continue to accrue and that there have been persistent arrears for a number of years.

The Tribunal also considered the terms of the letters issued to the Respondent. Whilst they were not fully in the form of the template letters produced by the Scottish Government, the letter of 4 May 2024 was largely in the suggested form and did advise of the monthly rent, it did specify the arrears at that stage, provide information as to tenant's rights in relation to possession proceedings and how to access support. Whilst it was noted the template letter had not been used, there was no requirement to do so. The Tribunal thereafter considered the terms of the correspondence letter dated 4 May 2024 and determined that, there had, at very least, been some compliance with the pre-action requirements.

- Decision

The Tribunal therefore decided that it was reasonable to issue an eviction order.

### **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.**

Rory Cowan

---

Legal Member/Chair

12 February 2025  
Date