



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/24/2093**

**Re: Property at 18 Stewart Road, Alford, AB33 8UA (“the Property”)**

**Parties:**

**Mr John Paul Beaumont, Rannes Cottage, Kennethmont, Huntly, AB54 4NP (“the Applicant”)**

**Ms Alana Tait, 18 Stewart Road, Alford, AB33 8UA (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Ann Moore (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction.**

**Background**

1. By application dated 8 May 2024 the applicant seeks an order for eviction, relying on ground 12 (rent arrears for three or more consecutive months) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The applicant lodged the following documents in advance of the case management discussion (“cmd”):
  - Copy tenancy agreement
  - Notice to leave
  - Section 11 notice to local authority
  - Rent statement from December 2021

- Pre Action Requirement correspondence

3. A case management discussion ("cmd") took place via teleconference on 17 September 2024. The applicant attended with his representative, Mr Kingdon, Head of Residential Leasing, Peterkins Letting Agents. The respondent was also in attendance,
4. The respondent did not dispute that there were rent arrears amounting to £4875 as at the date of the cmd however she sought to oppose an order for eviction on the grounds of reasonableness. She stated that she resided in the property with her 3 children aged 15, 12 and 5. She stated that she had previously resided in the property with her partner. He left the property in December 2020. She became sole tenant in May 2021. She had been employed as a cleaner however the hours were not regular which led to an unpredictable income and issues with her universal benefit claim. The respondent stated that she had now stopped working as a cleaner and in the previous month was unemployed for the purposes of her universal credit claim. This meant that her income would be more stable. She advised that she received £750 towards her housing costs which left a £50 monthly shortfall. The respondent advised that she had been struggling with her personal and financial circumstances and had buried her head in the sand. She stated that she had now made her family aware of the eviction action and they had agreed to provide financial support. She stated that her mother agreed to pay £400 per month toward the rent arrears. She also stated that she had some prospect of inheriting funds which would clear the arrears however she was unsure when those funds would be paid. The respondent stated that she wished to defend the action on the grounds of reasonableness.
5. The applicant advised that the respondent's mother had phoned before the cmd to make an offer to pay £400 per month towards the arrears however this had been followed by a call from the respondent's sister stating that her mother could not afford to make the proposed payments as she was in receipt of benefit.
6. The Tribunal fixed a hearing on the question of reasonableness. In a note issued following the cmd the Tribunal indicated that the respondent should lodge additional documents in support of her case such as evidence relating to

her expected inheritance, and any other evidence relating to the respondent or her children's personal circumstances.

### **Hearing – 20 March 2025**

7. The applicant was in attendance with his representative Mr Kingdon. The respondent was not present or represented. The respondent had been notified by email and letter of the hearing. The Tribunal clerk telephoned the respondent on the morning of the hearing to enquire as to why she was not in attendance however there was no answer. The Tribunal was satisfied that the respondent had received proper notice of the cmd and proceeded with the cmd in her absence in terms of rule 29.
8. Prior to the hearing the applicant had lodged the following additional documents:
  - Updated rent account
  - Document relating to the applicant's financial outlays in relation to the property
  - Copy text messages between the applicant and the respondent's mother
9. The respondent had not lodged any written representations or documents in advance of the hearing.

### **Summary of the applicant's evidence**

10. The applicant confirmed that he sought an order for eviction. He stated that since the cmd the respondent had failed to address the rent arrears which had increased since the cmd. The applicant stated that the respondent had first moved into the property in January 2019 with her then partner. After her partner left the property she became the sole tenant on 1 May 2021. At present the respondent paid rent by Direct Debit. The applicant stated that there had been payments from the respondent to cover the rent over the past 6 months however she had not made any payment for the month of September 2024. The applicant stated that over the past 4 years the respondent had been in arrears. She typically maintained payment of the rent for a period of some months before missing a month leading the arrears to gradually increase. The arrears at present amounted to £4375.

11. The applicant stated that the rent charged for the property was slightly below the current market rent. He stated that his intention was to relet the property in the event an order was granted. The applicant confirmed that he owns 2 other properties which he rents out.
12. The applicant stated the property which the respondent had indicated she would benefit from as part of an inheritance was currently for sale. He stated that as far as he was aware the property had been on the market since June 2024.
13. The applicant stated that the text messages that had been submitted were between him and the respondent's mother. Prior to the cmd the applicant's mother had contacted the respondent to advise that she would pay £400 per month towards the arrears. The applicant had contacted her by text to follow up on the proposal. As shown in the text messages the respondent's mother said that she could not afford to make any payment toward the arrears.
14. The applicant stated that he had various outgoings associated with the property including administrative fees, maintenance and payments towards an interest only mortgage. In addition he required to contribute towards payment of the lump sum due under the mortgage. He stated that the respondent's rent arrears impacted his finances as he had to cover the shortfall caused by any rent arrears. The applicant had little confidence that the respondent would break the pattern of missing payments towards the rent sporadically.
15. The applicant stated that he was not aware of any change in the respondent's personal circumstances since the cmd.

### **Evidence of Mr Kingdon**

16. Mr Kingdon stated that the pattern of rental payments by the respondent was sporadic. He stated that there was an issue of affordability for the respondent which meant that it was likely that arrears would build up again. He stated that the property was below the market rent and the applicant would have no difficulty re-letting it. He stated that the respondent had not made any contact since the cmd and he was unaware of any change in her personal circumstances.

### **Findings in fact and law**

1. Parties entered into a tenancy agreement with a commencement date of 1 May 2021.
2. Monthly rent due in terms of the agreement is £800.
3. Arrears as at 20 March 2025 amounted to £4375.
4. The respondent has been in arrears of rent continuously since May 2021.
5. The applicant complied with the pre-action requirements set out in the Rent Arrears Pre Action-Requirements (Coronavirus) (Scotland) Regulations 2020.
6. Ground 12, in schedule 3 of the 2016 Act has been established.
7. The respondent resides with her three children.
8. The respondent failed to adhere to an offer to repay the arrears at the rate of £400 per month made at the case management discussion.
9. The respondent did not attend the hearing on 20 March 2025.
10. The respondent did not lodge any documentary evidence to support her defence of the application on the grounds of reasonableness following the case management discussion on 17 September 2025.
11. Since October 2024 the respondent has made regular payments towards the rent and has paid £600 towards the outstanding arrears balance.

### **Reasons for the decision**

12. The Tribunal had regard to the application and the documents lodged by the applicant. The Tribunal also took into account the oral submissions made by parties and Mr Kingdon at the cmd and hearing.
13. Ground 12 states:

*12(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.*

14. The Tribunal was satisfied on the basis of the rent accounts that had been lodged that the respondent had been in arrears of rent for a period in excess of three months. The respondent did not dispute the level of arrears at the cmd.
15. The Tribunal determined the correspondence sent to the respondent on 2, 9 and 17 December 2023 complied with the pre-action requirements. The respondent had been provided with information relating to the rent arrears and guidance on how to access assistance in compliance with the pre-action requirements on multiple occasions.
16. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against
17. The Tribunal was satisfied that the arrears at the property amounted to £4375 as at the date of the cmd. The respondent had not lodged any information which sought to demonstrate that the arrears were in any part due to an issue with unpaid benefits.
18. The Tribunal took into account the information provided by the applicant. The Tribunal gave weight to the high level of arrears and that the respondent had been in arrears constantly since the commencement of the tenancy. The Tribunal also took into account the applicant's evidence that the non-payment of rent impacted his financial circumstances. Set against this the Tribunal gave weight to the fact that the respondent had made payments regularly in the six months prior to the hearing, reducing the outstanding balance by £600.

19. The Tribunal gave weight to the pattern shown in the rent account of the respondent maintaining payments towards the arrears only to default at regular intervals. The Tribunal also gave weight to the fact that while the arrears had reduced since the cmd the respondent had fallen short of the payments of £400 per towards the arrears that had been offered at the cmd.
20. The Tribunal accepted the position as stated by Mr Kingdon that the property was not affordable for the respondent which explained the failure to significantly reduce the arrears.
21. The Tribunal had sympathy for the respondent's personal circumstances and gave great weight to the fact that she resided in the property with her 3 children. The children's ages meant that they would have spent a large proportion of their childhood living in the property. The Tribunal also took into account that the respondent had indicated at the cmd that the sale of a relative's property may result in her receiving sums that would reduce the arrears. The applicant had confirmed that the property was on the market but remained unsold. The Tribunal considered that had the respondent lodged documents supporting her defence as set out at the cmd and attended the hearing to oppose an order being granted her personal circumstances would have been a very weighty factor. However, in the absence of the respondent lodging any supporting documents or attending the hearing to give evidence to oppose an order the Tribunal determined that on balance it was 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.**

Mary-Claire Kelly

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**Legal Member/Chair**

20 March 2025  
**Date**