

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/24/2843**

**Re: Property at 106 Abernethy Road, Barnhill, DD5 2PG (“the Property”)**

**Parties:**

**Ms Kirsten Ferguson, 9a The Holdings, Barns of Claverhouse, Dundee, DD3 0QF  
 (“the Applicant”)**

**Mr John McCartney, 106 Abernethy Road, Barnhill, Broughty Ferry, Dundee,  
DD5 2PG (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (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 the Applicant was entitled to an order for the eviction  
of the Respondent from the property.**

**Background**

1. By application dated 21 June 2024 the Applicant’s representative, Rent Locally, Letting Agents, Dundee, applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a Notice to Leave with proof of service, a Section 11 Notice with proof of service, a deposit sheet and a ledger showing arrears of rent together with other documents in support of the application.
2. By Notice of Acceptance dated 18 July 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 17 October 2024.
4. A CMD was held by teleconference on 20 November 2024. The Applicant attended in person and was represented by Ms Laura Wheelan of Rent Locally who was accompanied by her colleague Mr Ross Leiper. The Respondent did not attend nor was he represented.
5. The Tribunal determined it required further information and adjourned the CMD for the Applicant's representatives to provide confirmation of any further payments that may be due to be allocated to the Respondent's rent ledger, an up-to-date rent statement, a copy of the tenancy agreement and copies of the pre-action protocol letters sent to the Respondent.
6. By email dated 28 November 2024 the Applicant's representatives submitted a copy of the Private Rental Tenancy Agreement, rent ledger with extended emails and pre-action protocol letters and confirmed there were no outstanding payments to be added to the ledger.
7. By email dated 17 March 2025 the Applicant's representatives submitted a further updated rent ledger to the Tribunal.

### **The Case Management Discussion**

8. A CMD was held by teleconference on 25 March 2025. The Applicant attended in person and was represented by Ms Laura Wheelan of Rent Locally who was accompanied by her colleague Mr Ross Leiper. The Respondent did not attend nor was he represented.
9. Ms Wheelan confirmed that the amount of rent currently due by the Respondent was £2765.99. Ms Wheelan also confirmed that she had provided the information requested by the Tribunal at the CMD on 20 November 2024.
10. The Tribunal explained to the Applicant and her representatives that although the previous Tribunal had indicated it was satisfied that an order for eviction should be granted subject to the further information being provided the Tribunal was not bound by the previous Tribunal's decision and required to be satisfied that it was reasonable in the circumstances to do so.
11. The Applicant confirmed that she had found it stressful due to the Respondent being in arrears of rent for virtually the whole of his tenancy of five years. The Applicant also explained that she had to retire from employment due to ill health and that it was her plan to re-let the property if the order was granted. The Applicant also advised the Tribunal that she had three let properties in total.

12. Ms Wheelan advised the Tribunal that the Respondent was not prepared to engage with Rent Locally. She confirmed the Respondent lived in the one-bedroom property alone. The Applicant advised the Tribunal that the Respondent had previously worked for Dover Fuelling Solutions. Ms Wheelan and Mr Leiper were unable to say for certain if the Respondent was still in employment or in receipt of benefits although it was thought that some housing benefit or Universal Credit was being paid. Ms Wheelan explained that since November the amount being paid to reduce the rent arrears had fallen to about £4.35 per month and would therefore take an incredibly long time to clear the debt if maintained. Mr Leiper advised the Tribunal that attempts had been made to enter into a payment plan with the Respondent but he would not respond. Mr Leiper doubted that the £4.35 was part of a Universal Credit payment plan towards the arrears as it was very low.

### **Findings in Fact**

13. The Respondent commenced a Private Residential Tenancy of the property on 11 October 2019.
14. A valid Notice to Leave under Ground 12 of Schedule 3 of the 2016 Act was served on the Respondent on 21 May 2024.
15. A Section 11 Notice was sent to Dundee City Council on 21 June 2024.
16. The Applicant suffers from ill health and has been forced to give up work and take early retirement.
17. The Applicant intends to re-let the property if an order for eviction is granted.
18. The Respondent lives in the property alone.
19. The Respondent's employment circumstances are uncertain as is the amount he receives by way of benefits.
20. The Respondent currently owes rent amounting to £2765.99.

### **Reasons for Decision**

21. The Tribunal was satisfied from the documents submitted and the oral submissions of the Applicant and her representatives that the parties entered into a Private Residential Tenancy that commenced on 11 October 2019. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 12 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings

had been given to Dundee City Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced that at the date of the CMD the Respondent owed rent amounting to £2765.99 and that he had been sent appropriate pre-action protocol letters and that as far as the Applicant's representatives were aware no housing benefit claims were pending.

22. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that despite being given an opportunity to submit written representations to the Tribunal and to attend a CMD on two separate occasions the Respondent had chosen to do neither. The Tribunal had to balance the needs of the Applicant with the needs of the Respondent in arriving at a decision. On the one hand there was the Applicant who due to ill health was no longer able to work and had found the Respondent's tenancy of the property stressful due to him continually being in arrears of rent which at times amounted to many thousands of pounds and currently to almost six months' rent. On the other hand, the Tribunal also had to take account of the needs of the Respondent who if evicted would be rendered homeless yet despite being given an opportunity to make submissions to the Tribunal and over a period of several months to significantly reduce the arrears the Respondent had not engaged either with the Applicant's representatives or the Tribunal
23. After carefully considering the circumstances of both parties the Tribunal was persuaded that the needs of the Applicant in this application were such that it was reasonable in the circumstances to grant an order for eviction of the Respondent from the property.

## **Decision**

24. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondent from the property.

## **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.

Graham Harding

Graham Harding  
Legal Member/Chair

25 March 2025  
Date