



**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/24/4220

**Re: Property at 3, 12 Manor Place, West End, Edinburgh, EH3 7DD (“the
Property”)**

Parties:

**Mr Bruce Lennox, Mrs Georgina Lennox, 26 Wild Pear Crescent, Fourways
Gardens Estate, Johannesburg, 2191, South Africa; 5 Keurboom Crescent,
Fourways Gardens Estate, Johannesburg, 2191, South Africa (“the Applicant”)**

**Mr Albert Morillo, 3, 12 Manor Place, West End, Edinburgh, EH3 7DD (“the
Respondent”)**

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Gerard Darroch (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 10 September 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. The application was conjoined with application reference FTS/HPC/CV/24/4217 seeking an order for payment of rent arrears in the sum of £7484.57.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement

- Notice to Leave dated 5 August 2024 with proof of service.
 - Rent statements
 - Pre action email to the respondent dated 20 June 2024
 - Notices of rent increase
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.
3. A case management discussion (“cmd”) was assigned for 9 May 2025.
 4. On 30 April 2025 the applicant’s representative submitted an updated rent account showing that arrears had increased to £25,956.

Case management discussion – 9 May 2025- teleconference

5. The applicant was represented by Ms Wilson, Portfolio Manager, Retties & Co Ltd, letting agents. The respondent was not present or represented. The Tribunal was satisfied that the respondent had received proper notice of the cmd and proceeded with the cmd in his absence in terms of rule 29.
6. Ms Wilson sought an order for eviction. She stated that no rent had been paid by the respondent since April 2024 with arrears now standing at £25,956. The tenancy had commenced on 23 June 2021. The property was a 3 bedroom flat. The respondent was the sole tenant. She stated that attempts had been made to contact the respondent to discuss the arrears however contact by telephone and email was very limited. She stated that a visit was made to the tenant on 24 June 2024. During that visit the respondent stated that he had separated from his partner. He also advised Ms Wilson that he had no money and could not be contacted by email or phone. She stated that correspondence was posted to him after that date, including copies of emails. Ms Wilson visited the property again on 26 August, 5 September and 26 September 2024. During those visits it was clear that the respondent was in very poor health. The respondent was aware that a notice to leave was due to expire. During the visit on 5 September 2024 Ms Wilson and her colleague were concerned about the respondent’s wellbeing as he was in poor physical condition. They arranged for paramedics to attend and the respondent was taken into hospital for treatment. Ms Wilson stated that the respondent’s son was notified of the letting agent’s concerns about his father’s wellbeing. At the visit on 26 September 2025 the respondent fell and hit his head. He advised Ms Wilson that he had not been

eating and seemed very thin and gaunt. Paramedics again attended to provide medical assistance to the respondent who was taken to hospital.

7. Ms Wilson stated that when a further visit was made in November the respondent was not in the property. She stated that the property was in a poor condition and not properly maintained. She stated that she was made aware that the respondent was in hospital again in November. Ms Wilson advised that a social worker from the Royal Edinburgh Hospital had contacted her recently to advise that the respondent was again in hospital. Ms Wilson stated that the respondent was aware of the eviction process as he had told the social worker to ask whether an eviction order had been granted. The social worker had stated that if an eviction order was granted she would be assisting the respondent with obtaining suitable accommodation from the local authority. The social worker stated that without an eviction order the local authority would default to the respondent being able to stay in the property.
8. Ms Wilson stated that the high level of arrears had an impact on the applicant's financial circumstances.

Findings in fact

9. Parties entered into a tenancy agreement with a commencement date of 23 June 2021.
10. Monthly rent due in terms of the agreement is £2163.
11. Arrears as at 30 April 2025 amounted to £25,956.
12. The respondent has not made any payments towards the rent or arrears since April 2024.
13. The applicant complied with the pre-action requirements set out in the Rent Arrears Pre Action-Requirements (Coronavirus) (Scotland) Regulations 2020.
14. The respondent has been in poor health since August 2024 with numerous hospitalisations.
15. The applicant's representatives attended the property to check on the welfare of the respondent on 26 August, 5, September, 26 September and 5 November 2024.
16. The respondent was not maintaining the property in reasonable condition due to his poor health.
17. The respondent is approximately 63 years of age and not in employment.

18. The respondent resided alone in the property.
19. The respondent is receiving assistance from the social work department at City of Edinburgh Council.
20. The respondent is currently a patient at the Royal Edinburgh Hospital in Morningside.
21. The applicant's representative has notified the respondent's son regarding his poor health.
22. Ground 12, in schedule 3 of the 2016 Act has been established.

Reasons for the decision

23. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) *Subject to paragraph (2), the First-tier Tribunal—*

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

24. The Tribunal was satisfied that having regard to the undisputed facts of the case it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

25. The Tribunal had regard to the application and the documents lodged by the applicant's representative. The Tribunal also took into account Ms Wilsons submissions and evidence provided at the cmd.

26. 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.

27. 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.

28. The Tribunal considered 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.

29. In relation to question of reasonableness the Tribunal determined that the correspondence sent to the respondent complied with the pre-action requirements. The respondent had regard to the email correspondence that had been lodged and accepted that 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.

30. The Tribunal was satisfied that the arrears at the property amounted to £25,956 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 issues with benefits.
31. The Tribunal gave considerable weight to the high level of arrears, which continued to rise and that no payment had been made by the respondent for a considerable period of time. The level of arrears would have a financial impact on the applicant.
32. The Tribunal took into account the information provided by Ms Wilson. The Tribunal accepted the evidence provided by Ms Wilson in relation to her contact with the respondent to be genuine and truthful. The Tribunal gave particular weight to the fact that the Ms Wilson had sought to engage with the respondent however it was clear that he was not coping in the tenancy. He was unable to pay rent and was physically unwell to the extent that paramedics attended the property on 2 occasions at the request of Ms Wilson. The Tribunal took into account that the respondent had been hospitalised on a number of occasions and Ms Wilson's most recent information was that he was in the Royal Edinburgh Hospital in Morningside.
33. The Tribunal gave significant weight to Ms Wilson's submissions that she had been contacted by a social worker from the Royal Edinburgh hospital to ascertain the position in relation to the eviction application with a view to making arrangements for the respondents.
34. The Tribunal considered that the respondent was in a vulnerable position however, it was clear that he was unable to manage the tenancy and was amassing significant arrears. In light of the lack of opposition to the application and the information provided that the respondent was under the supervision of the social work department the Tribunal determined that 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

9 May 2025

Legal Member/Chair

Date