

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

Chamber Ref: FTS/HPC/EV/24/3644

Re: Property at Flat 7, Speyview, 13 Spey Street, Fochabers, IV32 7EH (“the Property”)

Parties:

Mr Ian Innes, 18 Queens Road, Longniddry, East Lothian, EH32 0FG (“the Applicant”)

Mr Miles Bowden, Flat 7, Speyview, 13 Spey Street, Fochabers, IV32 7EH (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 9th September 2024. The application was submitted under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based (erroneously) on ground 12A of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 11th March 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 8th May 2025 at 10am by teleconferencing. The letter also requested all written representations be submitted by 1st April 2025.

3. On 12th March 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 12th March 2025.

The Case Management Discussion

4. A CMD was held on 8th May 2025 at 10am by teleconferencing. The Applicant was present and represented himself. The Respondent was present and represented himself.
5. The Tribunal noted that the application was made under ground 12A, which no longer exists, and not 12. The Applicant said that this was an error on his part. The Tribunal was content to amend this as it was not prejudicial to the Respondent and was not opposed by him.
6. The Respondent said that he was not opposed to an order being granted. He has been working with his local authority to be re-housed. He is being allocated a property by them which is due to be ready the day after the CMD (9th May 2025). The Tribunal asked if he had received notice of the rent increases. He was content that he had received the notices.
7. The Applicant has concerns about the state of the Property after the Respondent leaves the tenancy. The Tribunal said that this was beyond their jurisdiction in this case today. The Applicant is a member of the Scottish Association of Landlords and will seek advice from them or a solicitor. The Respondent can seek advice on any tenancy issues too but this is not a matter for the Tribunal at this CMD.
8. The Tribunal was content to grant an order for eviction as it was unopposed and there were no issues of reasonableness before them.

Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 2nd September 2019.
10. The Respondent persistently failed to pay his rent charge of £360 per month. The rent payments are due to be paid on the second day of each month.
11. Arrears accrued to more than three months' rent payment at the date of application and was more than one month's rent payments at the date of the CMD.
12. The Respondent is not opposed to an order being granted. The Respondent has been allocated a new property by his local authority which is due to be ready for him on or around 9th May 2025.
13. The arrears are currently £8300. The rent charge includes energy costs. This has been included as it is one charge to the Respondent each month.

14. There are no issues of reasonableness that prevent an order from being granted.

Decision

15. The Tribunal found that ground 12 has been established and granted an order in favour of 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.

G. Miller

8th May 2025

Legal Member/Chair

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Date