



**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/24/2194

Re: Property at 21 York Street, Peterhead, AB42 1SN (“the Property”)

Parties:

Miss Fiona Lawson, Mr William Lawson, 6 Mile End Place, Peterhead, AB42 2GG; 6 Mile End, Peterhead, AB42 2GG (“the Applicant”)

Miss Kirsty June Meade, 21 York Street, Peterhead, AB42 1SN (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) had been met and it would be reasonable to make an eviction order.

The Tribunal therefore made an eviction order in terms of section 51 of the 2016 Act.

Background

1. This is an application under Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 51 of the 2016 Act. The Applicant relied upon ground 12 of Schedule 3 of the 2016 Act as the ground for possession, stating that the Respondent was in arrears of rent.
2. The application referred to a Case Management Discussion (“CMD”) on 13 November 2024, to take place by teleconference. Notification was sent to the parties in accordance with Rule 17(2) of the Rules of Procedure. Said notification together with a copy of the application paperwork was served upon

the Respondent by Sheriff Officers on 9 October 2024. Both parties were invited to make written representations in advance of the CMD. No representations were received from either party.

Case Management Discussion

3. The CMD took place on 12 November 2024 by teleconference. Ms Laura Wilson, an employee of the Applicants' representative, represented the Applicants. The Respondent, Ms Meade, was also in attendance.
4. The Tribunal heard submissions from the parties on the application. The Applicants sought an eviction order. The Respondent advanced a defence that it would be unreasonable for the order to be granted. She accepted that arrears were due but disputed the amount stated by the Applicants. She suffered from mental health issues, which had prevented her from dealing with matters, and she had found it difficult to source suitable alternative accommodation. She confirmed that she had been in receipt of universal credit with the housing element since the start of the tenancy but had not paid this to the rent account, as she was prioritising other debts. Universal credit was now being paid directly to the Applicants with a payment towards the arrears. The Applicant had previously proposed payment plans, which were unaffordable. The Respondent resided in the property with a 7 month old daughter and a 12 year old son. She had a social worker, along with support from other agencies, who were assisting her with her applications for housing.
5. The Tribunal therefore determined to fix a hearing, having identified the following issues to be resolved:-
 - What is the current level of rent arrears outstanding?
 - Is it reasonable on account of the facts of this case for the Tribunal to make an eviction order?
6. The Tribunal issued a Direction to parties requiring them to submit evidence in advance of the hearing. The Respondent was directed to submit evidence of her universal credit entitlement, her mental health, the other financial obligations that had impacted upon her ability to pay rent, and any discussions or contact that had taken place between the parties. The Applicant was directed to submit any evidence of financial detriment as a result of the arrears, any discussions or contact that had taken place between the parties, and an updated rent statement.

The Hearings

7. The first hearing took place on 31 January 2025. The Respondent did not join the call. The Applicants were represented by Ms Wilson. The Tribunal noted that the Respondent had been given notice of the hearing under Rule 24 of the Rules. The Respondent had subsequently indicated she would have difficulties joining a video conference hearing, and the Tribunal had therefore arranged for the hearing to take place by teleconference to allow her the opportunity to

participate. The Tribunal was therefore satisfied that she was aware of the hearing and determined to proceed in her absence.

8. The Tribunal noted that no response had been received to the Direction from either party. Ms Wilson emailed over a rent statement during the course of the hearing and indicated that the Applicants may have faced difficulties in providing the requested evidence due to their health issues. The Tribunal subsequently determined to adjourn the hearing to allow parties a further opportunity to comply with the Direction.
9. The Tribunal received a response to the Direction from the Applicants on 11 February 2025. No written representations were received from the Respondent.
10. The second hearing took place on 20 March 2025 by teleconference. The Applicants were represented by Ms Wilson. The Respondent joined the call.
11. The Tribunal questioned why the Respondent had failed to comply with the Direction. The Respondent advised that her mental health continued to make it difficult for her to deal with matters. She had sought support from social services, her housing officer and the Salvation Army. No one was able to help her with the Tribunal proceedings. She confirmed that the Applicants were now receiving universal credit directly. The Respondent confirmed that she was maintaining her objection to the eviction order as she had nowhere else to go. Ms Wilson objected to a further postponement of the hearing, citing the impact this was having on the Applicants.
12. Having heard from the parties, the Tribunal agreed to postpone the hearing to give the Respondent a final opportunity to obtain advice and submit a response to the Direction. The Tribunal confirmed that the hearing would go ahead on the rescheduled date, and there would be no further postponements.
13. On 9 June 2025 the Tribunal received an updated rent statement from the Applicants. No response to the Direction was received from the Respondent.
14. The third hearing took place on 19 June 2025 by teleconference. Ms Wilson represented the Applicants. The Respondent did not join the call. The Tribunal noted that she had been given notice of the hearing under Rule 24 of the Rules. She had provided no prior explanation for her failure to attend. The Tribunal had made it clear to her at the previous hearing that the hearing would proceed. The Tribunal was therefore satisfied, having weighed both the Applicants' and the Respondent's interests, that it could proceed with the hearing in the Respondent's absence under Rule 29 of the Rules.
15. The Tribunal had the following documents before it:-
 - (i) Form E application form dated 9 May 2024;
 - (ii) Private residential tenancy agreement between the parties;
 - (iii) Copy correspondence from Peterhead Property Letting Agency to the Respondent dated 6 March 2024;

- (iv) Notice to leave and proof of delivery to the Respondent by sheriff officers;
 - (v) Section 11 notice to Aberdeenshire Council and proof of delivery by email;
 - (vi) Rent statements;
 - (vii) Screenshots of text messages between the Applicants and Respondent; and
 - (viii) Statement of the Applicants circumstances.
16. The Tribunal proceeded to hear representations from Ms Wilson on behalf of the Applicants. As a preliminary matter, the Tribunal highlighted that there appeared to be errors in the most recent rent statement produced. Ms Wilson addressed these and confirmed that the current arrears stood at £6,053.50.
17. The Tribunal went on to hear evidence from Ms Wilson on the reasonableness of making an eviction order. Ms Wilson confirmed that the tenancy between the parties had commenced in November 2023. For the first eleven months of the tenancy the Respondent failed to pay any rent for the property. The Applicants were now receiving rent directly from universal credit with a payment of approximately £65 per month towards the arrears. However, it was going to take many years for the arrears to be cleared. Furthermore, the Applicants were aware that the Respondent's universal credit entitlement may change, or she could stop the direct payments at any time. The relationship between the parties had completely broken down. The Respondent was refusing to allow access to the Applicants to carry out repairs. They were concerned about the condition of the property. The Applicants were struggling both mentally and physically with their health. The first Applicant had undergone major surgery recently. The Tribunal proceedings had caused additional stress. The Applicants' were struggling financially as a result of the arrears, and had been borrowing from family members. Ms Wilson advised that the Applicants had other rental properties in which they were facing similar difficulties.
18. Ms Wilson confirmed that the Applicants had approached the Respondent when the arrears began to accrue. In February 2024, when the arrears were £1782, they had asked the Respondent if she could pay an extra £297 per month over a six month period to clear the balance. The Respondent advised this was not possible. The Respondent confirmed that she was in receipt of universal credit with a housing element, and could not pay any extra towards the arrears. She had advised the Applicants at that point that she would arrange for her universal credit to be paid to them directly. She had not done so until October 2024, by which point the arrears had increased to over £6000. Ms Wilson confirmed that she had also sent the Respondent a letter on the Applicant's behalf with the information required under the rent arrears pre-action protocol on 6 March 2024. There was no suggestion that the Respondent was entitled to any backdated payments from universal credit that would reduce the arrears balance.
19. Ms Wilson explained that she believed the Respondent was residing in the property with her partner, and her two children, based on reports from

neighbours. There was social work involvement in place. There had been some reports from neighbours of antisocial behaviour and what appeared to be criminal activity at the property, with persons coming and going. Ms Wilson confirmed that the Applicants had not been inside the property since February 2025.

20. The Tribunal adjourned the hearing to deliberate, at which point Ms Wilson left the call, before resuming the hearing and confirming its decision.

Findings in fact

21. The Applicants are the landlord, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement, which commenced on 9 November 2023.
22. In terms of clause 8 of the said tenancy agreement, the rent due for the property is £594 per month.
23. Between 9 November 2023 and 9 October 2024, the Respondent paid no rent for the property.
24. The Respondent has been in receipt of universal credit with a housing element from the start of the tenancy.
25. The Respondent has used the housing element of her universal credit to meet other financial obligations.
26. On 9 October 2024 the Applicants began to receive direct payments from universal credit to the rent account. The payments cover the rent due, with an additional payment of £65.02 per month towards the arrears.
27. As at the date of this decision, the Respondent is in rent arrears of £6053.50.
28. The relationship between the Applicants and Respondent has broken down. The Applicants are unable to gain access to the property to carry out routine maintenance and repairs.
29. The Respondent resides in the property with two children. There are reports from neighbours that the Respondent's partner also resides with her.
30. The Respondent has a social worker.

Reasons for decision

31. The Tribunal was satisfied it had sufficient information before it to make relevant findings in fact and reach a decision on the application following the hearing. The Tribunal had provided the Respondent with several opportunities to submit evidence in support of her defence, and to obtain advice or

representation regarding the application. The Tribunal considered that the Applicants were entitled to have the matter adjudicated upon at this stage. The application had been submitted to the Tribunal on 9 May 2024 and this was now the third hearing that had been scheduled in the matter.

32. Based on the application paperwork the Tribunal was satisfied that the tenancy between the parties was a private residential tenancy, and that the Respondent had been given a notice to leave that complied with the provisions of the 2016 Act. The Tribunal was also satisfied that the Applicant had given the local authority notice under section 11 of the Homelessness etc (Scotland) Act 2003 at the time of making this application. The Tribunal therefore considered whether ground 12 of schedule 3 of the 2016 Act had been met in this case.
33. The Tribunal considered the wording of ground 12:-
- “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.*
- (5) For the purposes of this paragraph—*
- (a) references to a relevant benefit are to—*
- (i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),*
- (ii) a payment on account awarded under regulation 91 of those Regulations,*
- (iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,*
- (iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,*

(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.

(6) Regulations under sub-paragraph (4)(b) may make provision about—

(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),

(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

(c) such other matters as the Scottish Ministers consider appropriate.”

34. The Tribunal accepted based on the rent statements produced by the Applicant and the evidence from Ms Wilson at the hearing that the Respondent had been in arrears for three or more consecutive months. The statements showed that the arrears had started to accrue as soon as the tenancy began in 9 November 2023. The Respondent had stated at the CMD that she disputed the level of arrears, but she had not sought to submit any contradictory evidence to the Tribunal. The Tribunal therefore accepted the Applicant's evidence as fact on this point.
35. The Tribunal therefore went on to consider whether it was reasonable to make an eviction order on account of the rent arrears in this case.
36. The Tribunal took into account the fact that the rent is currently being met through direct payments from universal credit, and that there are additional payments being made towards the arrears via that means. However, payment of rent is a fundamental obligation of any tenancy. The Respondent had failed to pay any rent, after moving into the property, for nearly a year. The Tribunal considered that a serious breach of her tenancy obligations. She had not provided any evidence to justify why this was the case. The Applicants had evidenced their compliance with the rent arrears pre-action protocol, by contacting the Respondent early on in the tenancy to encourage her to address the arrears in February and March 2024. Whilst the Respondent had indicated that the payment proposal from the Applicants in February 2024 was unaffordable, she had provided no evidence to show any proactive steps taken on her part to deal with matters at that time, and no evidence to establish why it had taken until October 2024 for rent payments to commence.
37. Furthermore, the Tribunal accepted that the Applicants would have concerns about the longevity of the current arrangement, based on the Respondent's previous conduct and the breakdown in the relationship between the parties. It was a reasonable assumption that they may again find themselves again in a position whereby rent goes unpaid.

38. There was no evidence to suggest that the arrears had arisen due to any failure or delay in the payment of the Respondent's benefits. The Respondent had conceded at the CMD that she had been receiving her benefits from the start of the tenancy, and had used the housing element of her universal credit to pay towards other debts. She had cited her mental health as the reason for her conduct in this regard, but had provided no medical evidence to substantiate this.
39. Therefore, despite the fact that the rent was now being met, the Tribunal considered it could give more weight to the Respondent's failure to pay rent over a prolonged period of time, and the level of rent arrears that had accrued as a result in this case which now exceeded £6,000.
40. The Tribunal had regard to the fact that the Respondent resided in the property with two young children. The Tribunal gave careful consideration to this as a factor relevant to the reasonableness of making an order in this case. The Tribunal did however note that the social work department of the local authority were involved with the Respondent's family. The Tribunal could therefore reasonably assume that social work would be able to provide assistance and support were an eviction order granted, in terms of the local authority's obligations towards the welfare of the children.
41. Finally, the Tribunal considered the impact on the Applicants. The Tribunal had before it a statement from them, which outlined the impact on their mental and physical health. However, as it was not a sworn affidavit, and the Tribunal had not heard direct evidence from the Applicants at the hearing, the Tribunal could give less weight to this factor, although the Tribunal could reasonably infer that rent arrears of this nature would be a source of stress. The Tribunal further noted from Ms Wilson's submissions that there appeared to be reports of antisocial behaviour and criminal activity at the property. There was no evidence before the Tribunal to establish such conduct was taking place, and these were not grounds for possession upon which the Applicants sought to rely. The Tribunal therefore did not take account of Ms Wilson's representations on these points in reaching its decision.
42. Accordingly, having weighed those factors relevant to reasonableness, the Tribunal concluded that the balance weighed in favour of making an eviction order in this case.
43. The decision of the Tribunal was unanimous.

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.

R.O'Hare

Legal Member/Chair

Date: 19 June 2025