



**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/24/2857**

**Property : Boghall Farmhouse, Boghall, Dunning PH2 ORE (“Property”)**

**Parties:**

**Pitcairns Estate Trust, Pitcairns House, Bridge of Earn Road, Dunning PH2 9BX (“Applicant”)**

**Pitcairns Estate Trust, The Bothie, Pitcairns House, Bridge of Earn Road, Dunning PH2 9BX (“Applicant’s Representative”)**

**Helen Jeans, Boghall Farmhouse, Boghall, Dunning PH2 ORE (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Gordon Laurie (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to grant an order for possession of the Property under Ground 12 of the Private Housing (Tenancies)(Scotland) Act 2016..**

**Background**

1. The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Tenancy Agreement which commenced on 10 November 2020; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 7 May 2024 ("Notice to Leave"); post office certificate of posting dated 7 May 2024 and royal mail proof of delivery on 8 May 2024; statement of rent arrears; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 21 June 2024 and sheriff officer's execution of service certifying service of the Application on the Respondent on 15 October 2024. On 5 and 15 November 2024 the Respondent lodged a written representation.

2. A Case Management Discussion (“CMD”) took place before the Tribunal on 18 November 2024 by teleconference. The Applicant was represented by Ian Grinbergs of the Applicant’s Representative. The Respondent was in attendance. Reference is made to the Note of the CMD. The Tribunal considered that the following was in dispute :

- the amount of rent outstanding in respect of the tenancy of the Property
- whether the Applicant has complied with their obligation to maintain the Property at all times during the tenancy
- the extent, if any, to which the Respondent is entitled to an abatement of rent
- having taken into account any entitlement to abatement of rent, whether or not the ground for eviction has been met

3. The outcome of the CMD was that the Tribunal fixed a Hearing and issued a Direction in the following terms :

*The Respondent is required to lodge with the Tribunal :*

1. *A written submission setting out the required repairs at the Property during the Respondent’s tenancy of the Property, the date on which each item of repair was notified to the Applicant and confirmation as to whether or not the repair remains outstanding.*
2. *Any available photographs of the required repairs.*
3. *Any available documentary evidence of the need for a repair being intimated to the Applicant.*
4. *Any available “check in” report in respect of the Respondent’s tenancy of the Property.*
5. *Evidence of the outstanding rent having been placed in a separate bank account.*

*The said documentation should be lodged with the Tribunal no later than close of business on 18 December 2024.*

*The Applicant is required to lodge with the Tribunal :*

1. *An up to date statement of rent arrears which must be intimated to the Respondent and which refers only to outstanding rent in respect of the Property.*
2. *A written submission setting out details of works carried out to the Property prior to the commencement of the Respondent’s tenancy and the Applicant’s response to the Respondent’s written submission referred to above regarding required repairs at the Property.*
3. *Any available photographs of repairs having been carried out at the Property.*
4. *Any available reports regarding the need for repairs at the Property such as the report from Tayside Property Services regarding damp at the Property.*

*The said documentation should be lodged with the Tribunal no later than close of business on 20 January 2025.*

4. The Tribunal emailed the Respondent on 20 January 2025 reminding the Respondent of the need to lodge a response to the Direction. The Tribunal emailed the Respondent on 24 March 2025 requesting a response to the Direction within 14 days. On 2 April 2025 the Tribunal emailed the Respondent advising that the Tribunal may refuse to allow any documents to be lodged late. The Respondent did not lodge a response to the Direction.
5. On 17 January 2025 the Applicant lodged a response to the Direction. On 20 May 2025 the Applicant lodged an up to date statement of rent arrears which showed arrears of £13,249.00.

### **Hearing**

6. A Hearing took place at Inveralmond Business Centre on 3 June 2025. The purpose of the Hearing was to resolve the issues in dispute in the application and in the conjoined application for a payment order proceeding under reference FTS/HPC/CV/24/2860 ("Civil Application"). At the Hearing the Applicant was represented by Ian Grinbergs of the Applicant's Representative. On the afternoon of 2 June 2025 the Respondent emailed the Tribunal as follows :

*"Sorry, I had the case meeting down for 30<sup>th</sup> of June not the 3<sup>rd</sup>. My youngest is an urgent appointment with the optician tomorrow at 9:45 pm in Auchterarder and I'm meant to be at a family funeral afterwards. Details attached. I can arrive later for the funeral but can't miss the optometrist appointment. Is there any indication of how long the case meeting is due to take".*

The email was brought to the attention of the Tribunal on the morning of 3 June 2025. The Tribunal delayed commencement of the Hearing until 10.20am to allow the Respondent time to attend. The Respondent did not attend. The Tribunal noted that the correct date for the Hearing had been intimated to the Respondent on 1 April 2025. The Tribunal noted that the Application had been lodged on 24 June 2024. The Tribunal noted that the Respondent had failed to lodge a response to the direction dated 18 November 2024 despite 3 reminders being issued to her. Finally the Tribunal noted the high level of rent arrears. In all the circumstances the Tribunal considered that it was in the interests of justice to allow the Hearing to proceed in the absence of the Respondent and determined to do so in terms of rule 29.

7. In order to determine whether the ground for eviction had been established, the Tribunal required to determine the sum due, if any, in the Civil Application. Reference is made to the Decision in the Civil Application dated 4 June 2025 in which the Tribunal determined that the Respondent was not entitled to an abatement of rent and determined to make an order for payment in the sum of £13,249 in respect of rent due for the period 1 November 2023 to 1 May 2025.
8. As regards the question of reasonableness, Mr Grinbergs told the Tribunal that the Respondent lives in the Property with two children aged around 10 and 12. He said that he was not aware of any health or disability issues in the family. He said that the Respondent's parents, brother and grandmother live in a cottage close to the Property. He said that the Applicant owned the Property plus 7 other rental properties. He said they also had a shared interest in agricultural land with a local farmer. He said that the Applicant's income was from the rental properties and the shared agricultural space. He said that if an order for possession was granted the Applicant would re-let the Property.
9. Mr Grinbergs told the Tribunal that he had recent contact with the Respondent regarding the installation of fibre broadband but the contact had all been by text message. He said the Respondent had not raised any issue about repairs at the Property since February 2024. He said that he was not aware of any repairs being outstanding. He said that he delivered the notice to leave by hand as well as by email on 8 May 2024 and encouraged the Respondent to discuss the arrears and enter into a payment plan but she did not do so. He said that the Respondent had never indicated that she was withholding rent due to the Applicant's failure to carry out repairs.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement which commenced on 10 November 2020.
2. The Notice to Leave was served by recorded delivery post on 8 May 2024.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 21 June 2024.
5. The Applicant has complied with the requirements of the pre-action protocols.

## **Findings in Fact and Law**

The Tribunal made the following findings in fact and law:

1. In the circumstances of the case, it is reasonable to grant an order for possession of the Property.

## **Reasons for the Decision**

10. The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. In the Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months.
11. An evidential Hearing had been fixed to allow the Tribunal to determine the issues in dispute including whether or not the Respondent was entitled to an abatement of rent as a result of the Applicant's failure to comply with their obligation to keep the Property in a state of repair that complied with the Housing (Scotland) Act 2006. Reference is made to the Decision in the Civil Application dated 4 June 2025 in which the Tribunal determined that the Respondent was not entitled to an abatement of rent and that the rent arrears were £13,249 as at 1 May 2025. The Tribunal granted an order for payment of that amount in the Civil Application. In those circumstances the Tribunal determined that ground 12 had been established.
12. The Tribunal considered the question of reasonableness. The rent arrears were substantial being £13,249 as at 1 May 2025. In the Civil Application the Tribunal noted that repairs had been carried out within a reasonable time of being notified to the Applicant. In those circumstances the Applicant had complied with their obligation to ensure the Property met the Repairing Standard. The evidence before the Tribunal was that the Applicant was not aware of any outstanding repairs and had not had any reports of further water ingress at the Property since the works recommended to deal with the water ingress were completed in week commencing 22 April 2024. Despite that, no rent had been paid since 26 February 2024. The Respondent had not lodged a response to the direction issued dated 18 November 2024 and had not attended the Hearing on 3 June 2025. Having considered all of the circumstances as detailed in the written representations and the oral submission from Mr Grinbergs at the

Hearing, the Tribunal determined that it was reasonable to issue an eviction order.

### **Decision**

13. The Tribunal grants an order for possession of 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.**

**Joan Devine  
Legal Member**

**Date: 3 June 2025**