



**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 (Act)**

Chamber Ref: FTS/HPC/EV/24/2468

Re: Property at 77 Noran Avenue, Dundee, DD4 7LS (“the Property”)

Parties:

**Mrs Linda Horsburgh, Mr James Horsburgh, 20B Dundee Road, Broughty Ferry,
Dundee, DD5 1LX (“the Applicant”)**

Mr Paul Blanchard, 77 Noran Avenue, Dundee, DD4 7LS (“the Respondent”)

Tribunal Members:

Alan Strain (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 application for eviction and recovery of possession be granted.

Background

This is an application under Rule 109 and section 51(1) of the Act for eviction and recovery of possession on Ground 12 of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 30 May 2024;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 1 November 2023;
3. Notice to Leave dated 26 April 2024 served by email of the same date along with statement of rent arrears;
4. Section 11 Notice to Local Authority served by email dated 29 May 2024;
5. Rent Arrears Statement as at 1 June 2025;
6. Pre Action Correspondence;

7. CMD Note and Direction dated 1 November 2024;
8. Written Submissions form Applicant dated 29 March and 23 May 2025;
9. Royal Mail Track and Trace Receipt of Tribunal Hearing Notification on the Respondent dated 8 April 2025.

Hearing

Preliminary Matters

The case called for a Hearing by Webex videoconference on 12 June 2025. The Applicant (Mrs Horsburgh) participated and was supported by Mr Gavin Barton. The Respondent did not participate and was not represented.

The Tribunal were satisfied that the Respondent had received notification of the Hearing as he had signed for the Hearing Notification on 8 April 2025 which had been sent Recorded Delivery and the Tribunal had sight of the Royal Mail Track and Trace Receipt.

Upon enquiry the Tribunal were informed by the administration that the caseworker had tried to call the Respondent on his mobile yesterday without success.

The Tribunal decided that it was fair and reasonable to proceed in the Respondent's absence.

Evidence

The Tribunal accepted the documentary evidence lodged in advance by Mrs Horsburgh and also the written submissions lodged on 29 March and 23 May 2025.

This confirmed that the Respondent was in rental arrears as at 1 June 2025 in the sum of £11,312.

The Respondent had not provided any information despite having been directed by the Tribunal to do so by Direction of 1 November 2024.

Mrs Horsburgh confirmed that the Respondent lived in the 2 bedroom Property alone and was in employment as far as she was aware. She was unaware of any health issues of the Respondent.

Decision and Reasons

The Tribunal had regard to Ground 12 of Schedule 3 to the Act which provides:

Rent arrears

12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if—

(a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant—

(i) is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and

(ii) has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and

(b) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

(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 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.

(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.

The Tribunal then considered the documentary evidence it had received, Mrs Horsburgh's evidence and the submissions made. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 1 November 2023;
2. The monthly rent following rent was £680;
3. Notice to Leave had been served on the Respondent on 26 April 2024;
4. As at the date of service of the Notice to Leave the Respondent was in arrears of rent and had been in arrears for a continuous period of three or more consecutive months;
5. As at the date of the Hearing the Respondent was in arrears of rent in the amount of £11,312;
6. The rental arrears were not due to any delay or failure in the payment of a relevant benefit;
7. Section 11 notification had been served on the local authority.


The Tribunal was satisfied that Ground 12 had been established and it was reasonable to grant the application for eviction and recovery of possession given the significant rent arrears which continued to increase.

The Respondent had not provided any information to suggest why it would not have been reasonable to grant the order. The Tribunal considered that the considerable amount of arrears meant that it was reasonable in the circumstances to grant the order sought.

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.




Legal Member/Chair



Date