



**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/24/4887**

**Re: Property at No. 2 Ellands Farm Cottage, Brodie, Forres, Moray, IV36 2TE  
("the Property")**

**Parties:**

**Mr William Downie, Ellands Farms, Brodie, Forres, Moray, IV36 2TE ("the  
Applicant")**

**Miss Johanna Jeppsson, No. 2 Ellands Farm Cottage, Brodie, Forres, Moray,  
IV36 2TE ("the Respondent")**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the  
Tribunal") determined that the Applicant is entitled to the Order sought for  
recovery of possession of the property.**

**Background**

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 ("the Rules") for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber ("HPC") having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion ("CMD").
3. Letters were issued on 29 March 2025 informing both parties that a CMD had been assigned for 1 July 2025 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part

in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 19 April 2025.

4. On 17 April 2025 the Tribunal received written representations from the Respondent dated 15 March 2025.
5. On 15 May 2025, the Tribunal received an email from the Applicant's representative attaching a survey report and a repair invoice.

#### **The case management discussion – 1 July 2025**

6. The CMD took place by conference call. The Applicant was represented by Mrs Sarah Cooper, solicitor. The Respondent joined the conference call and represented herself. The Tribunal explained the purpose of the CMD.
7. The Tribunal observed from the papers already submitted that there is a dispute between the parties about the condition of the Property. In order to explore whether that was a relevant dispute for the Tribunal to determine, the Tribunal asked the Respondent whether the application for an eviction order is opposed by her. The Respondent advised that the application is not opposed and in fact, she would prefer for an order to be granted so that she can proceed with a homeless application. She explained that she made an application to Moray Council for alternative accommodation, but that application has been suspended because there are rent arrears due to the Applicant. The Respondent accepted that some rent has not been paid, and she explained that she could not afford to pay all of the rent because she had to spend money on alternative heating for the Property because the central heating does not work. The Respondent lives in the Property with her 2 children aged 12 and 13. She is in employment and also receives universal credit. The Applicant's representative explained that the rent arrears due as at December 2024 were £9,858.80. Since then, the arrears have increased to £11,131.85. Although the Respondent's application for housing has been suspended, the local authority has a statutory duty to provide accommodation for the Respondent if an eviction order is granted.
8. The Tribunal adjourned the CMD to allow the members to discuss matters in light of the information provided by the parties. When the CMD was reconvened, the Tribunal explained that it found the ground of eviction established and that it was reasonable to grant the order sought. It explained that although there is a factual dispute between the parties about the condition of the Property, that is not a dispute that the Tribunal needs to determine, standing the position of both parties.

### **Findings in Fact**

9. The parties entered into a private residential tenancy which commenced 1 May 2019.
10. The Applicant served Notice to Leave on the Respondent by email and recorded delivery post on 26 August 2024.
11. The Respondent has been in rent arrears for more than 3 consecutive months.

### **Reason for Decision**

12. The Tribunal took into account the application and supporting papers and the submissions made at the CMD. The Tribunal was satisfied that it could reach a decision on the application without a hearing under Rule 18 of the Rules and make relevant findings in fact based on the information provided by the Applicant. Although there was a factual dispute between the parties about the condition of the Property and the reason for that condition, the Tribunal did not identify any issues to be resolved in this case that would require a hearing to be fixed.
13. Having considered the application and supporting papers, the Tribunal accepted that the Respondent had been given a notice to leave which complied with the provisions of sections 52, 54 and 60 of the 2016 Act. The Tribunal therefore went on to consider whether ground 12 had been met in this case.
14. The Respondent did not dispute the level of arrears as brought out in the rent statement lodged. The Respondent did not withhold payment of rent pending repairs, but rather spent money on heating costs. The level of rent arrears was substantial. The Respondent was not in a position to repay the arrears within a reasonable period of time. The Tribunal was satisfied that the ground for eviction was established.
15. The Tribunal considered whether it was reasonable to grant the order for eviction. The Tribunal relied heavily on the Respondent position that the application was not opposed. The rent arrears have increased significantly since this application was submitted. The Respondent is not in a position to repay the rent arrears within a reasonable period of time. The tenancy appears to be unaffordable to the Respondent. Taking account of these factors, the Tribunal found that it was reasonable to grant the 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.

Nicola Irvine

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Legal Member/Chair

1 July 2025

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Date