

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 Sections 51 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/5820

Re: Property at 24 McGregors Walk, Arbroath, DD11 1LR (“the Property”)

Parties:

Mr Shabaz Mahmood, 5 Colonsay Place, Buckie, AB56 1HW (“the Applicant”) and

Peterkins, 100 Union Street, Aberdeen, AB10 1QR (“the Applicant’s Representative”) and

Ms Charlene Fitchet, 24 McGregors Walk, Arbroath, DD11 1LR (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

G Darroch- Ordinary Member

Decision in absence of the Respondent:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines to grant an eviction order.

Background

1. This is an Application for an eviction order in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

Case Management Discussion

2. A Case Management Discussion (“CMD”) proceeded by remote teleconference call at 10.00am on 1st July 2025. The Applicant’s Representative’s Mr M Kingdon attended. The Respondent did not attend and was not represented. There was no explanation for her absence. The Tribunal noted that the Application case papers

had been served by Sheriff Officers on the Respondent, by their posting the relevant Application papers through the letter box of the Property, on 16th April 2025.

3. Mr Kingdon referred to the Application casefile. The Application papers were lodged with the Tribunal on 20th December 2024, when the Respondent's rent arrears were in the sum of £2,900.00. When the Notice to Leave ("NTL") was served on the Respondent, in July 2024, the rent arrears owing were £3,000.00. Mr Kingdon had also lodged an updated rent statement with The Tribunal's office by e-mail on 30th June 2025 showing rent arrears now owing in the sum of £8,500.00. He stated that following the lodging of the Application the Respondent had not made payment of any rent nor had she been in contact with the Applicant. Mr Kingdon stated that the Applicant understood that the Respondent is in receipt of benefits and is still residing at the Property with one child. The Applicant is not sure of the age of the child. The Applicant had informed Mr Kingdon that his last communication with the Respondent was by way of Whatsapp, when he received a message from her on 2nd April 2024. The Applicant had told Mr Kingdon that he had not received any replies from the Respondent to his correspondence regarding Property inspections and his subsequent letters outlining agencies that the Applicant may wish to obtain advice and assistance from in respect of the parties' tenancy agreement and her rent arrears. Mr Kingdon stated that the Applicant rents fifteen properties in the Aberdeen area as well as properties in other areas. He said that he understood that there was no mortgage outstanding in respect of the Property. Mr Kingdon asked the Tribunal to grant the eviction order sought in the Application.

Findings in Fact and Law and Reasons for Decision

4. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a PRT if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
5. Schedule 3 (12) to the 2016 Act provides that it is an eviction ground that a tenant has been in rent arrears for three or more consecutive months.
6. Having considered all of the documentary evidence, representations and the submission of Mr Kindgon, the Tribunal finds in fact that the Applicant, through his Representative, has provided the Tribunal, in his Application for an eviction order, with copies of the parties' PRT, the Notice to Leave ("NTL") served on the Respondent and the Section 11 (Homelessness etc. (Scotland) Act 2003) Notice intimated to Angus Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. The NTL, and the Application for an eviction order, proceed in terms of Schedule 3 (12) in the 2016 Act. The Tribunal further finds in fact that when the Application was lodged with the Tribunal's office, in December 2024, the Respondent was in rent arrears of £2,900.00 and had been in arrears for three or more consecutive months. The Tribunal also finds in fact that the current rent arrears are in the sum of £8,500.00. The Respondent remains resident in the Property.

7. In making its findings in fact the Tribunal relied on the documentation within the Application and, in particular, the oral submission of Mr Kingdon, the terms of which were consistent with the terms of the relevant documentation.
8. The Tribunal, in making the findings in fact, also placed reliance on the absence of any contradictory information or submissions from the Respondent. The Application case papers and details of the CMD had been intimated to her by Sheriff Officers on 16th April 2025. She is aware of the important nature of the Application but has not attended at the CMD and has not made any oral or written representations regarding the merits and the reasonableness of the grant of the eviction order sought.
9. Accordingly, the Tribunal finds in law that the ground in Schedule 3 (12) to the 2016 Act is met as the Respondent has been in rent arrears for three or more consecutive months and that it is reasonable that an eviction order be granted.

Decision

10. Therefore, the Tribunal makes an order for eviction of the Respondent, Ms Charlene Fitchet, from the Property at 24 McGregors Walk, Arbroath, DD11 1LR

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.

Tribunal Legal Member

Date: 1st July 2025

