



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

Chamber Ref: FTS/HPC/EV/24/5586

Re: Property at 22 Charlotte Street, First Floor Right, Aberdeen, AB25 1LR (“the Property”)

Parties:

Marnox Properties Limited, 144 Crown Street, Aberdeen, AB11 6HS (“the Applicant”)

Mr Szymon Matysiak, 22 Charlotte Street, First Floor Right, Aberdeen, AB25 1LR (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and James Battye (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. By application dated 5 December 2024 the applicant seeks an order for eviction, relying on ground 12 (rent arrears for three or more consecutive months) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The application was conjoined with application reference FTS/HPC/CV/24/5592 seeking an order for payment of arrears.
3. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Notice to Leave with proof of service
 - Rent statements

- Pre action correspondence to the respondent.
- Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.

Case management discussion – 19 June 2025- teleconference

4. A case management discussion (“cmd”) took place on 19 June 2025 via teleconference. Mr Logan, Director of Marnox Property was in attendance for the applicant. The respondent was not present or represented. The respondent had been served with papers by Sheriff Officers. The Tribunal was satisfied that he had been properly notified of the cmd and proceeded in his absence in terms of rule 29.
5. Mr Logan sought an order for eviction. The lease which had been lodged had a commencement date of 9 December 2022 and showed that the monthly rent due was £330. Rent accounts had been lodged which spanned the period from the commencement of the tenancy to May 2025. These showed that the outstanding arrears figure had risen to £5158.78 as at May 2025. No payment had been received from the respondent since April 2024.
6. Mr Logan stated that efforts had been made on numerous occasions to engage with the respondent to try and resolve the arrears issue. Attempts had been made recently to telephone and email the respondent however the respondent failed to engage. Mr Logan stated that as far as he was aware the respondent lived alone. Complaints had been received regarding anti-social behaviour at the property. Mr Logan stated that efforts had been made to contact the DWP to request direct payment of rent to the applicant. On 3 occasions this application had been unsuccessful however no reason had been provided.

Findings in fact and law

7. Parties entered into a private residential tenancy agreement with a commencement date of 9 December 2022.
8. Monthly rent due in terms of the agreement was £330.
9. Arrears as at 19 June 2025 amounted to £5158.78.
10. The respondent has not made any payments towards the rent or arrears since April 2024.

11. The applicant complied with the pre-action requirements set out in the Rent Arrears Pre Action-Requirements (Coronavirus) (Scotland) Regulations 2020.
12. The respondent has not submitted any written opposition to the application and has not sought to defend the application.
13. The applicant has received complaints regarding anti-social behaviour at the property.
14. The applicant has sought to engage with the respondent to resolve the rent arrears issues. The respondent has failed to engage with the applicant.
15. Ground 12, in schedule 3 of the 2016 Act has been established.
16. It is reasonable in the circumstances to grant an order for eviction.

Reasons for the decision

17. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

18. The Tribunal was satisfied that having regard to the undisputed facts of the case it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

19. The Tribunal had regard to the application and the documents lodged by the applicant. The Tribunal also took into account Mr Logan's submissions at the cmd.

20. Ground 12 states:

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.

21. The Tribunal was satisfied on the basis of the rent accounts that had been lodged that the respondent had been in arrears of rent for a period in excess of three months.

22. In relation to question of reasonableness the Tribunal determined that the correspondence sent to the respondent complied with the pre-action requirements.

23. The Tribunal was satisfied that the arrears at the property amounted to £5158.78 as at the date of the cmd. The respondent had not lodged any information which sought to demonstrate that the arrears were in any part due to issues with benefits.

24. The Tribunal took into account the information provided by Mr Logan. Mr Logan was straightforward in the evidence he provided which the Tribunal accepted in full. The Tribunal noted the high level of arrears, which continued to rise and that no contact or payment had been made by the respondent for a considerable period of time.
25. The Tribunal gave particular weight to the fact that the respondent had not taken any steps to oppose the application or lodge a defence.
26. The Tribunal gave weight to the fact that there were broader concerns regarding the conduct of the tenancy in particular relating to complaints of anti-social behaviour. The Tribunal also took into account that the respondent was the sole tenant in the property and did not reside with any dependents.
27. In the foregoing circumstances the Tribunal determined that it was reasonable to grant an order for eviction.

Decision

The Tribunal determined to grant an 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.

Mary-Claire Kelly

Legal Member/Chair

Date **19 June 2025**