



**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/24/5600**

**Re: Property at 10a Kirktonholm Place, Kilmarnock, KA1 3HW (“the Property”)**

**Parties:**

**Jeoux Ltd, 20-22 Wenlock Road, London, N1 7GU (“the Applicant”)**

**Miss Jade Baxter, 10a Kirktonholm Place, Kilmarnock, KA1 3HW (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Frances Wood (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 4 December 2024 the applicant sought an order for eviction relying on ground 12 – three or more consecutive months in rent arrears. The application was conjoined with application reference FTS/HPC/CV/24/5597 in terms of which the applicant seeks an order for payment of £2425 in respect of rent arrears.
2. The applicant lodged the following documents in advance of the case management discussion (“cmd”):
  - Copy tenancy agreement
  - Notice to leave with proof of service

- Section 11 notice to local authority
  - Rent statement
  - Pre Action Requirement email correspondence
3. The respondent submitted an application for a time to pay direction dated 15 April 2025. She accepted that £2425 rent arrears were due and offered to make monthly payment towards the arrears of £118.70 comprising £78.80 direct deduction from the her universal credit benefit with the remainder paid directly to the letting agent.

#### **Case management discussion – 18 June 2025- teleconference**

4. A case management discussion (“cmd”) took place via teleconference on 18 June 2025. The applicant was represented by Ms McGuire from Jewel Homes. The respondent was not present or represented. The Tribunal was satisfied that the respondent had received proper notice of the cmd and proceeded with the cmd in her absence in terms of rule 29.
5. Ms McGuire sought an order for eviction. She stated that after the respondent had made the application for time to pay she had contacted her to advise that the offer was accepted. She stated that there had been a shortfall in the amount received from the DWP since the time to pay application had been submitted. When she had contacted the respondent by email to enquire when the proposed payment would be made the respondent emailed back on 13 June 2025 saying that she couldn’t pay any more and would be moving out anyway. Ms McGuire stated that the respondent was currently receiving Universal Credit from the DWP which covered the full rent charge and accordingly rent arrears were not increasing. She stated that the landlord owned 3 rental properties on which there were mortgages and had been impacted financially due to the respondent’s rent arrears. She stated that as far as she was aware the respondent lived with her son who attends school. She is currently working. The property is a 2 bedroom flat.

#### **Findings in fact**

6. Parties entered into a private residential tenancy agreement with a commencement date of 30 November 2023.

7. Monthly rent payable is £425.
8. Rent arrears as at 4 December 2025 amounted to £2425.
9. Rent arrears as at 18 June 2025 have increased to £2488.45.
10. The respondent has submitted a time to pay application accepting liability for rent arrears of £2425 and offering to repay the debt at the rate of £118.70 per month.
11. The applicant has accepted the respondents' proposal.
12. The applicant complied with the pre-action requirements set out in the Rent Arrears Pre Action-Requirements (Coronavirus) (Scotland) Regulations 2020.
13. The respondent emailed the applicant's letting agent on 13 June 2025 stating that she intended to move out of the property.
14. The respondent has not lodged a written defence or sought to oppose an order for eviction being granted.
15. The respondent is in employment and receives universal credit top up benefits.
16. The rent charge is currently paid by direct payments from the DWP.
17. The respondent resides with her school aged son.
18. Ground 12, in schedule 3 of the 2016 Act has been established.

### **Reasons for decision**

19. 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.**

20. 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.

21. 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.*

22. The Tribunal took into account the application and accompanying documents and the contents of the time to pay direction submitted in the conjoined rent arrears application and Ms McGuire's oral submissions at the cmd.

23. 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.

24. In relation to question of reasonableness the Tribunal determined that the correspondence sent to the respondent complied with the pre-action requirements. The respondent had regard to the email correspondence that had been lodged and accepted that the respondent had been provided with information relating to the rent arrears and guidance on how to access assistance in compliance with the pre-action requirements on multiple occasions.

25. The Tribunal was satisfied that the arrears at the property amounted to £2488.45 as at the date of the cmd. The respondent had accepted that the amount of £2425 had been due at the date she submitted her application for a time to pay direction.
26. The Tribunal took into account the information provided by Ms McGuire. The Tribunal noted that the arrears were no longer increasing and that direct payments were being made by the DWP towards the arrears though these had reduced to only £45 in June.
27. The Tribunal gave particular weight to the fact that the respondent had not taken any steps to oppose the application or lodge a defence. The Tribunal accepted Ms McGuire's evidence that an email had been received from the respondent dated 13 June 2025 which stated that the respondent would be "moving out anyway". The Tribunal gave significant weight to this evidence which was supported by the respondent's failure to attend the cmd.
28. The Tribunal gave weight to the fact that the respondent had resided in the property with her child but in the absence of any opposition to the application and taking into account the email dated 13 June 2025 the Tribunal considered that this factor did not outweigh the factors in favour of granting an order.
29. The Tribunal considered that had the respondent sought to defend the application her ongoing payments towards the rent account and personal circumstances would have represented weighty factors against the granting of an order. In the event that the respondent was unable to attend due personal circumstances she may seek to recall or review the order.
30. In the foregoing circumstances the Tribunal determined that it was reasonable 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.**

R Mary-Claire Kelly

Legal Member:

Date: 18<sup>th</sup> June 2025