



**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/25/0340**

**Re: Property at 101 1F3 Portobello High Street, Portobello, Edinburgh, EH15 1AR  
("the Property")**

**Parties:**

**Gibbins Property Edinburgh Limited, Chestney House, 149 Market Street, St  
Andrews, Fife, KY16 9PF ("the Applicant")**

**Mrs Margaret Coltherd, 101 1F3 Portobello High Street, Portobello, Edinburgh,  
EH15 1AR ("the Respondent")**

**Tribunal Members:**

**Alison Kelly (Legal Member) and Nicholas Allan (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the  
Tribunal") determined that the order for eviction should be granted.**

**Background**

1. On 28<sup>th</sup> January 2025 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 ("The Rules"), seeking an order to evict the Respondent from the property under Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
  - i. Copy Notice to Leave dated 26<sup>th</sup> November 2024;
  - ii. Proof of service of Notice to Leave;
  - iii. Section 11 Notice and proof of service;
  - iv. Copy Rent Statement showing arrears of £4106.48 as at 26<sup>th</sup> November 2024;
  - v. Pre Action Requirements letters

3. The Application was served on the Respondent by Sheriff Officers on 16<sup>th</sup> April 2025.
4. On 16<sup>th</sup> June 2025 the Applicant's representative lodged an up to date rent statement showing that the arrears were £7832.02 as at 1<sup>st</sup> June 2025.

### **Case Management Discussion**

5. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Miss Condron of DJ Alexander. There was no attendance by the Respondent or any representative on her behalf.
6. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
7. Miss Condron sought an order for eviction in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. She explained that she did not have a copy of the tenancy agreement. Her agency had taken over from another agency, and while the original agency could confirm the date the tenancy started, 1<sup>st</sup> June 2020, they could not provide the agreement. She made reference to the arrears and said that the ground of eviction was met.
8. Miss Condron went on to say that the Respondent lives with her brother. They are in their seventies. They do answer the phone and they do speak to the Property Manager when the Property Manager visits them to discuss the arrears. They continually say that they do not have internet banking and will physically go to the bank to transfer the rent. However, no payments ever follow from those discussions. No payments have been received since 26<sup>th</sup> July 2024. She is not aware of any applications for benefits.

### **Findings in Fact**

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing on 1<sup>st</sup> June 2020
- b. A Notice To Leave, dated 26<sup>th</sup> November 2024, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. The Applicant complied with the Pre Action Requirements;
- e. The Application was served on the Respondent by Sheriff Officer on 16<sup>th</sup> April 2025;
- f. Arrears at the date of the Notice to Leave amounted to £4106.48
- g. Arrears at today's date are £7832.02
- h. The Respondent lives with her brother and they are in their seventies

- i. No benefits applications have been intimated to the Applicant

## **Reasons for Decision**

9. Ground 12 states as follows:

*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.*

*(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.*

*(6) Regulations under sub-paragraph (4)(b) may make provision about—*

*(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),*

*(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,*

*(c) such other matters as the Scottish Ministers consider appropriate.*

10. The Tribunal are satisfied that the Respondent has been in arrears for three or more consecutive months, and this is not as a consequence of any delay in payment of a benefit.

11. The Tribunal are also satisfied that in those circumstances it is reasonable to grant the order. The arrears now total in excess of one year's rental payment and this in and of itself makes it reasonable to grant the order. In addition there has been no response by the respondent to the Tribunal application.

## **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.**

# Alison Kelly

26<sup>th</sup> June 2025

Legal Member/Chair

Date