



**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 (Act)**

Chamber Ref: FTS/HPC/EV/25/0409

**Re: Property at 21 Vert Court, Haldane Avenue, Haddington, East Lothian, EH41
3PX (“the Property”)**

Parties:

**Mr Gerry Wheeler, 8 Claddach Kyles, Isle of North Uist, Eilean Siar, HS6 5EW
 (“the Applicant”)**

**Mr Johnpaul Bennett, 21 Vert Court, Haldane Avenue, Haddington, East
Lothian, EH41 3PX (“the Respondent”)**

Tribunal Members:

Alan Strain (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application for eviction and recovery of
possession be granted.**

Background

This is an application under Rule 109 and section 51(1) of the Act for eviction and recovery of possession on Ground 12 of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 3 February 2025;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 23 April 2021;
3. Notice to Leave dated 31 October 2024 served by email of the same date along with statement of rent arrears;
4. Section 11 Notice to Local Authority served by email dated 29 January 2025;
5. Rent Arrears Statement as at 23 January 2025;

6. Pre Action Correspondence;
7. Sheriff Officers Certificate of Service of CMD Notification on the Respondent dated 30 April 2025.

Case management Discussion (CMD)

The case called for a CMD by telephone on 4 July 2025. The Applicant did not participate but was represented by his Letting Agent, Mr Sloan. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondents would participate but they did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that he should attend and the Tribunal could determine the matter in absence if he did not.

The Tribunal decided that it was fair and reasonable to proceed in the Respondent's absence.

Mr Sloan confirmed that the Respondent was in rental arrears as at the date of the CMD in the sum of £13,400.40. He had not paid any rent since 30 November 2023.

Mr Sloan had limited information about the Respondent's circumstances. The Respondent had failed to engage with the Applicant and was failing to engage with the local authority.

Decision and Reasons

The Tribunal had regard to Ground 12 of Schedule 3 to the Act which provides:

Rent arrears

12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if—

(a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant—

(i) is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and

(ii) has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and

(b) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

(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 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.

(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.

The Tribunal then considered the documentary evidence it had received and Mr Sloan's submissions. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 23 April 2021;
2. The monthly rent was £736.70;
3. Notice to Leave had been served on the Respondent on 31 October 2024;
4. As at the date of service of the Notice to Leave the Respondent was in arrears of rent and had been in arrears for a continuous period of three or more consecutive months;
5. As at the date of the Hearing the Respondent was in arrears of rent in the amount of £13,400.40;
6. The rental arrears were not due to any delay or failure in the payment of a relevant benefit;
7. Section 11 notification had been served on the local authority.

The Tribunal was satisfied that Ground 12 had been established and it was reasonable to grant the application for eviction and recovery of possession given the significant rent arrears which continued to increase.

The Respondent had not provided any information to suggest why it would not have been reasonable to grant the order. The Tribunal considered that the considerable amount of arrears meant that it was reasonable in the circumstances to grant the order sought.

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.

Alan Strain

4 July 2025

Legal Member/Chair

Date