



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/1069

Property at 10A North Street, Inverurie, AB51 4QR (“the Property”)

Parties:

Laing Leasing Limited, 6 Market Square, Oldmeldrum, Inverurie, AB51 0YD (“the Applicant”)

Mr Gavin Beare, 10A North Street, Inverurie, AB51 4QR (“the Respondent”)

Tribunal Members:

Josephine Bonnar (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 an eviction order should be granted against the Respondent in favour of the Applicant.

Background

1. The Applicant lodged an application for an eviction order in terms of Section 51 and Ground 12 of schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave, rent statement, section 11 notice and evidence of compliance with the rent arrears pre action protocol were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer and the parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 7 July 2025 at 10am and that they were required to participate. Prior to the CMD the Applicant lodged an updated rent statement.
3. The CMD took place on 7 July 2025. The Applicant was represented by Mr Kingdon. The Respondent did not participate.

Summary of Discussion at CMD

4. Mr Kingdon told the Tribunal that there has been no contact with the Respondent since January 2025. Following service of the Notice to Leave, he got in touch to ask for an additional two weeks to move out of the property. They agreed to this and emailed him on 3 January 2025, to ask if he had now moved out. He did not respond to this email or to subsequent attempts to contact him. Mr Kingdon said that the landlord also lives in Inverurie. It's a small place where people tend to know each other. The Applicant believes that the Respondent is mostly staying with a partner. He is also known to be working at a local pub. The landlord instructed a roofer to carry out work at the property. The roofer reported that the property appears to be full of rubbish. Mr Kingdon said that the arrears are now £7500. The Respondent stopped paying in May 2024 and no payments have been made since that date. He is working and not thought to be in receipt of benefits. He lives at the property alone. In response to questions from the Tribunal, Mr Kingdon said that the Applicant owns five properties in Inverurie and two others elsewhere. The eviction order is sought due to the level of arrears. It is anticipated that work will be required before the property can be re-let or sold.

Findings in Fact

5. The Applicant is the owner and landlord of the property.
6. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
7. The Respondent is due to pay rent at the rate of £500 per month.
8. The Respondent has been in arrears of rent since 3 May 2024, and no payments of rent have been received since that date.
9. The Respondent currently owes £7500 in unpaid rent.
10. The Applicant served a Notice to leave on the Respondent on 14 November 2024.
11. The Respondent resides at the property alone but stays with a partner most of the time. He is in employment.
12. The Respondent has failed to respond to letters issued to him in compliance with the rent arrears pre action protocol.

Reasons for Decision

13. The application was submitted with a Notice to Leave dated 14 November 2024, together with a copy email which establishes that the Notice was sent to the Respondent on that date. The Notice states that an application to the Tribunal is to be made on ground 12, rent arrears over three consecutive months.
14. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
15. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
16. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states "(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in 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."
17. Sub-Paragraph (4) states, "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 Minister in regulations." Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant's rights in relation to eviction proceedings and how the tenant can access information and advice.
18. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Respondent currently owes £7500 and that he has been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Part 1 of Ground 12 is therefore established.
19. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
 - (a) The Tribunal is satisfied that the Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant provided copy correspondence issued to the

Respondent in compliance with the protocol.

- (b) The Tribunal is also satisfied that there is no evidence that the arrears are attributable to a delay or failure in the payment of a relevant benefit. The Respondent has failed to engage with the Applicant and there is no information available about any claim for, or entitlement to, universal credit or housing benefit. He is currently in employment.
- (c) The arrears are substantial and increasing.
- (d) The Respondent is not living at the property on a full-time basis.
- (e) The Respondent did not participate in the CMD or notify the Tribunal if the application is opposed.

20. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act that ground 12 has been established. For the reasons outlined in paragraph 19, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

21. The Tribunal determines that an eviction order should be granted against the Respondent.

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.

J. Bonnar

15 July 2025