

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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 (“the Act”)**

**Chamber Ref: FTS/HPC/EV/24/5510**

**Re: Property at Flat 2/1, 56 Provost Road, Dundee, DD3 8AH (“the Property”)**

**Parties:**

**Mr Hamza Ismail, 4 Herschell Street, Leicester, LE2 1LD (“the Applicant”)**

**Miss Dana Silvia Muchichescu, Flat 2/1, 56 Provost Road, Dundee, DD3 8AH (“the Respondent”)**

**Tribunal Members:**

**Jim Bauld (Legal Member) and David Fotheringham (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that that the application for the order for possession should be granted**

**Background**

1. By application dated 28 November 2024 the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 11 March 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
3. A Case Management Discussion (CMD) was set to take place on 7 July 2025 and appropriate intimation of that hearing was given to both parties. Service on the respondent was effected by sheriff officers on 30 April 2025.

## **The Case Management Discussion**

4. The Case Management Discussion (CMD) took place on 7 July 2025 via telephone case conference. The applicant was represented by his representative, Mr. Sean Cruickshank from Pavilion Properties. The Respondent did not take part.
5. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
6. The tribunal asked various questions of the applicant's representative with regard to the application.
7. He confirmed that he wished the order for eviction to be made.

## **Findings in Fact**

8. The Applicant is the registered owner of the property.
9. The Applicant and the Respondent, as respectively the landlord and tenant entered into a tenancy of the property which commenced on 13 July 2019
10. The tenancy was a private residential tenancy in terms of the Act.
11. The agreed monthly rental was £340.
12. On 30 September 2024 the applicant served upon the tenant a notice to leave as required by the Act. Service was effected by email and Notice became effective on 1 November 2024
13. The notice informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act.
14. The notice was correctly drafted and gave appropriate periods of notice as required by law.
15. The notice set out one of the grounds contained within schedule 3 of the Act, namely ground 12 (that the tenant had been in arrears of rent for three or more consecutive months)
16. Arrears had started to accrue in November 2023 and at the date of the lodging of the application arrears amounted to £961.53
17. The amount of arrears at the date of the CMD was £4,361.53.

18. Appropriate accounting had been provided in respect of the outstanding rent with the application to the tribunal.

19. The basis for the order for possession on ground 12 was thus established.

### **Reasons for Decision**

20. The order for possession sought by the landlord was based on a ground specified in the Act and properly narrated in the notice served upon the tenant. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground.

21. The tribunal accepted the evidence presented on behalf of the landlord with regard to the rent arrears. A rent statement was produced which set out the history of the arrears. Since on or around November 2023, the respondent has failed to pay the rent as it fell due and significant arrears have accrued.

22. The tribunal was satisfied that the tenant had been in arrears for a period far in excess of three consecutive months and the arrears owed were significant. The ground for eviction based on rent arrears was accordingly established.

23. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on ground 12 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.

24. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.

25. In this case the tribunal finds that it is reasonable to grant the order.

26. The level of arrears is extremely high, and it is unlikely that the arrears will ever be repaid. There is no suggestion that the tenant is making any attempt to meet the rent. The respondent has have provided no explanation for the failure to fully meet the rental obligations. The arrears as the date of the CMD are a significant sum and there appears to be no likelihood of them being repaid by the respondent. The respondent has lodged no written representations with the tribunal despite being offered the opportunity to do so. In all the circumstances the tribunal decided that it was reasonable to grant the order sought.

27. The tribunal decided to exercise the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

## **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.**

**Legal Member: Mr Bauld**

**Date: 7 July 2025**

**Jim Bauld**