

**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**

**Chamber Ref: FTS/HPC/EV/25/0298**

**Re: Property at 25 The Avenue, Gorebridge, EH23 4AG (“the Property”)**

**Parties:**

**Doonbye Properties Ltd, Monkrigg, Haddington, EH41 4LB (“the Applicant”)**

**Mr Amer Akhtar, 25 The Avenue, Gorebridge, EH23 4AG (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Robert Buchan (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated 23<sup>rd</sup> October 2024. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 16<sup>th</sup> April 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 10<sup>th</sup> June 2025 at 10am by teleconferencing. The letter also requested all written representations be submitted by 7<sup>th</sup> May 2025.
3. On 17<sup>th</sup> April 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 17<sup>th</sup> April 2025.

## The Case Management Discussion

4. A CMD was held on 10<sup>th</sup> April 2025 at 10am by teleconferencing. The Applicant was represented by Mrs Kelly Preston, Senior Property Manager, Ballantynes Chartered Surveyors, Estate Agents and Letting Agents. The Respondent was not present or represented. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
5. Mrs Preston told the Tribunal that as of today's date there are arrears of £6500. The next payment is due on 15<sup>th</sup> June 2025. If no payment is made the arrears will then be £7150.
6. Mrs Preston said that there are three other cases with the Housing and Property Chamber connected to this case. The first relates to a right of entry. A member of the Housing and Property Chamber Tribunal went out to the Property on 19<sup>th</sup> May 2025 with a member of staff from the letting agency and the Police. It was clear that there was someone in the Property but the door was not answered. Further action could not be taken until a warrant has been obtained to force entry. The second application has been raised with regard to payment of the arrears. This was lodged in May 2025 and so has not been conjoined to this application. The third application is an application for eviction in connection with antisocial behaviour. The Notice to Leave and the application were both lodged substantially after this application which meant that they could not be conjoined.
7. In terms of payment of the arrears, the Respondent has not contacted the Applicant or the letting agent. The letting agents believed the Respondent to be in receipt of Housing Benefit and so asked for direct payments to be made to the Applicant. The Respondent has a right to refuse direct payments being made. He has refused this on two occasions. The last attempt to get direct payments to be made to the Applicant was made in or around January 2025. There have been no payments to the rent account since July 2024.
8. Mrs Preston said that there have ongoing antisocial behaviour issues. There has been a significant amount of police involvement. She was advised by the Police to lodge a new application under antisocial behaviour in case the Respondent paid the arrears prior to this CMD which would mean that this eviction application could not proceed. The Respondent has been arrested for breaking into one of the houses in the cul de sac in which he lives. The occupants have now sold the property. They were in their house at the time with their new born baby when he broke in. He will go about during the night smashing up his neighbours milk deliveries. He has caused alarm by shouting aggressively. The Tribunal noted that as it was reported that this was in a foreign language it is unknown what the Respondent was shouting.
9. Mrs Preston said that the Respondent had been a tenant with his ex partner previously. However, there had been a relationship break up which left him in the Property on his own. A new tenancy agreement was signed in 2018 for a sole tenancy. It appears that the Respondent has spiralled since last year. It is believed that he is now taking illicit substances. His bins are full of take aways.

Mrs Preston said that he had let her, a community police officer and a gas engineer into the Property on 16<sup>th</sup> April 2025. She did not discuss with him about the rent but more about his welfare. He had said then that he had changed his phone number but gave the new one to her. After a few weeks he stopped responding to text messages. Mrs Preston raised her concerns about his mental health with the Social Work department on police recommendation but was told that it was not an issue that they would be involved with as he is not a risk to others. Mrs Preston has exhausted all options. The arrears are still increasing.

10. The Tribunal considered that Mrs Preston had undertaken many investigations in terms of trying to assist the Respondent. She has been told that while he may or may not have mental health issues it is not at a level that requires intervention. Though he is not paying his rent he clearly remains in the Property as he has been undertaking in well documented and observed antisocial behaviour. The Tribunal noted that there are arrears which are beyond three months and the Respondent has actively refused to allow the Applicant to get direct payments to address the ongoing rent charge. The Tribunal granted the order and considered that there were no issues of reasonableness to prevent an order being granted.

#### Findings and reason for decision

11. A Private Rented Tenancy Agreement commenced 8<sup>th</sup> June 2018.
12. The Respondent persistently failed to pay his rent charge of £650 per month. The rent payments are due to be paid on eighth day of each month.
13. Arrears accrued to more than three months rent payment at the date of Notice to Leave and the application. There were more than three months rent payments at the date of this CMD.
14. There are current arrears of £6500.
15. The Respondent stopped direct payments being paid for Housing Benefit to the Applicant for the rent.
16. There are no known outstanding Housing Benefit issues.
17. There are no issues of reasonableness that prevent an order from being granted.

#### Decision

18. The Tribunal found that ground 12 has been established and granted an order in favour of the Applicant.

## **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.**

# Gabrielle Miller

**11<sup>th</sup> June 2025**

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**Legal Member/Chair**

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**Date**