



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/24/5875

Re: Property at 107 Aberdour Road, Burntisland, KY3 0EW (“the Property”)

Parties:

Kingdom Initiatives Limited, Saltire Centre, Pentland Drive, Glenrothes, KY6 2DA (“the Applicant”)

Ms Amy Arnott, 107 Aberdour Road, Burntisland, KY3 0EW (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Ms E Munroe (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.

Background

1. This is a Rule 109 application dated 23rd December 2024, whereby the Applicant is seeking an eviction order under ground 12. The Applicant representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 3rd March 2023 at a monthly rent of £500, a notice to leave with evidence of service, a section 11 notice with evidence of service, pre-action requirement correspondence, and a rent statement.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officer on 20th June 2025.
3. By email dated 14th July 2025, the Applicant representative lodged an updated rent statement showing arrears in the sum of £10,794.40.

The Case Management Discussion

4. A Case Management Discussion ("CMD") took place by telephone conference on 7th August 2025. Ms Simone Callaghan, Paralegal, was in attendance on behalf of the Applicant. The Respondent was not in attendance. The start of the CMD was delayed to allow the Respondent to attend.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
6. Responding to questions from the Tribunal, Ms Callaghan said there had been no recent contact between the parties. The Applicant had visited the property on 21st July 2025, but there was no response. A card was left, but the Respondent did not contact the Applicant.
7. Ms Callaghan provided the background to the tenancy and the application. Arrears arose in November 2023. The Respondent agreed to enter in a payment plan, but this failed. No payment was made to the rent from November 2023 to May 2024. A further payment plan was entered into in October 2024, whereby the Respondent was to pay £50 per month towards arrears, with the understanding this would increase when the Respondent was in a position to pay more. The Respondent said she was seeking grant assistance from her union, but no additional payment was made. The Respondent was assisted by a money advice agency in or around February 2025. The Respondent said she would make payment of rent and £150 per month towards arrears. The Respondent did not adhere to this agreement.
8. Ms Callaghan provided details of the Respondent's employment. She is believed to be in employment. She is believed to live alone, and does not have any children living at the Property. There is no indication that the Respondent is in receipt of benefits. There has been no update from the advice agency since March 2025.
9. Ms Callaghan said arrears of this nature impact upon the level of service provided by the Applicant, who is a mid-market rent housing provider. There is an impact upon maintenance and repair obligations. There are implications in respect of bank loans made to the Applicant.
10. Responding to questions from the Tribunal, Ms Callaghan said the Respondent had an 18-month period of ill-health which affected her employment and her ability to pay her rent. The Respondent did not claim benefits during that time. The Applicant understands the Respondent has been back in work since February 2025.
11. Ms Callaghan submitted that it was reasonable to grant the order.

Findings in Fact and Law

12.

- (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 3rd March 2023 at a monthly rent of £500.
- (ii) The rent increased in August 2023 and August 2024.
- (iii) The Applicant has served a notice to leave upon the Respondent.
- (iv) The Respondent has accrued rent arrears.
- (v) The Respondent has been in rent arrears for three or more consecutive months.
- (vi) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
- (vii) The Applicant has complied with the pre-action protocol.
- (viii) It is reasonable to grant an eviction order.

Reasons for Decision

13. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if for three or more consecutive months the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that Ground 12 has been established.
14. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the Respondent was in rent arrears as a result of a delay or failure in the payment of a relevant benefit.
15. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. The Applicant has complied with the pre-action protocol.
16. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.

17. The Tribunal considered the arrears to be substantial and rising. The Respondent is not engaging with the Applicant, who has attempted to contact the Respondent by letter and by visiting the Property. Payment plans have failed. No rent is being paid. It would appear that the tenancy is not sustainable. The Applicant has attempted to engage with the Respondent and with the advice agency. The Applicant is entitled to expect rent to be paid. Non-payment of rent impacts upon the service delivery of the Applicant.
18. The Respondent did not attend at the CMD to put forward any information on their circumstances or any arguments in respect of reasonableness. The Tribunal considered the limited information it was provided with on the Respondent's circumstances. The Tribunal took into account that there are no children in the Property. The Tribunal took into account that the Respondent has reported suffering from ill-health which has impacted upon her employment and ability to pay rent in the past. However, in the absence of any further detail or any representations from the Respondent, the Tribunal was able to give limited weight to this information.
19. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend or make representations to the Tribunal to indicate why an order should not be granted, and the Respondent failed to do so. The Tribunal considered it was reasonable to grant the order sought.

Decision

20. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 11th September 2025.

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.

Helen Forbes

Legal Member

— 7th August 2025