

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/25/0072

Re: Property at 1 Clark Court, Darvel, KA17 0AL (“the Property”)

Parties:

Mr Andrew Jackson, 39 Singleton Cres, Ferring, West Sussex, BN12 5DG (“the Applicant”)

Mr James McGibbon, 1 Clark Court, Darvel, KA17 0AL (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

BACKGROUND

1. By Lease dated 1st September 2020. The Applicant let the Property to the Respondent.
2. A notice to leave dated 24th September 2024 was served upon the Respondent. The notice to leave intimated the Applicant was seeking recovery of possession as he intended to sell the Property.
3. The Applicant produced documentation to the Tribunal confirming that he had arranged for the marketing and subsequent sale of the Property.
4. The Applicant provided information explaining why he wished to sell the Property, explaining that a repair which was undertaken had cost £6,000.00. The rental income results in a maximum monthly profit between £150.00 - £200.00. Having regard to the cost of the repair recently undertaken, previous

risers in mortgage rates and other outgoings, the continued rental of the Property was no longer a viable option for him.

5. The Respondent instructed solicitors to act on his behalf. Prior to the case management discussion written representations were presented on his behalf. These representations opposed the grant of an eviction order. The written representations by the Respondent stated
 - that the Respondent did not believe the assertion by the Applicant that he intended to sell the Property,
 - that instead he believed the Applicant intended to have the Respondent evicted due to the Respondent having previously complained about repairs required at the Property,
 - that once he was evicted he believed the Applicant intended to re-let the Property rather than sell it.
 - that it was not reasonable for an eviction order to be granted.
 - he lives at the Property with his son.
 - he did not, at the stage of representations being presented to the Tribunal, have any alternative accommodations available to him.
 - he has been offered alternative accommodation by the local authority but has not yet accepted the same due to the premises being renovated.
 - he did not know a time frame for the renovation work to be completed or when alternative accommodation may be available to him.
6. A Notice in terms of s11 of the Homeless Etc. (Scotland) Act 2003 was intimated to the local authority.
7. The Respondent following the service of the notice to leave, stopped paying rent. As at the date of the application to the tribunal. Rent arrears amount to £7,000.00.

THE CASE MANAGEMENT DISCUSSION

8. A case management discussion was assigned to be held by teleconference at 2pm on 18th July 2025.
9. The Applicant was represented by Mr Breen of 247 Property Scotland Ltd. The Applicant did not participate personally. The Respondent did not participate personally in the case management discussion. At the commencement case management discussion Miss L Walker of Barnett's Law, Kilmarnock, appeared on behalf of the Respondent.
10. Miss Walker advised the Tribunal that she had expected the Applicant to participate personally. The Tribunal was aware that the Applicant had been served with all necessary paperwork, including joining details and indeed, had instructed agents accordingly. Miss Walker, however, intimated her intention to withdraw from acting on behalf of the Respondent due to lack of instructions. In the circumstances, Miss Walker left the case management discussion.
11. Mr Breen moved the Tribunal to grant an order for eviction. He confirmed the intention of the Applicant to sell the Property. He advised that as at the date of the case management discussion, arrears of rent amounted to £10,734.63.

12. The Tribunal adjourned to consider its decision in particular in relation to the absence of the Respondent and the withdrawal from acting of his legal representative.
13. The Tribunal, in the absence of an appearance by the Respondent at the case management discussion, and in the absence of opposition, granted an order for eviction.

REASONS FOR DECISION

14. The application to the Tribunal was based upon the intention of the Applicant to sell the Property. The Applicant had provided information which confirmed that it was, indeed, his intention to sell the Property. This included financial information explaining the income and outgoings in relation to the Property, the cost of significant recent repair and the fact that, following the notice to leave, the Respondent stopped paying rent.
15. As at the date of the case management discussion, rent arrears amounted to £10,734.63.
16. While the Respondent had lodged written representations suggesting that he did not believe that it was the intention of the Applicant to sell the Property, there was no further information provided in support of that assertion. In particular, he did not challenge the suggestion that he was in arrears of rent, that a repair was recently undertaken at significant cost and that in the circumstances, it was not financially viable for the Applicant to continue to rent the Property.
17. Separately, while the Respondent had intimated that it was not reasonable to grant an eviction order, it is clear that he has already engaged with the local authority and been offered alternative accommodation, albeit he has not yet accepted this offer.
18. The arrears of rent, as at the date of the case management discussion were in excess of £10,000.00 and in the absence of the Respondent, no issue was taken with that figure. No explanation was provided to the Tribunal to explain why arrears of rent had arisen.
19. In the circumstances,
 - the Respondent having had notice of the case management discussion,
 - having failed to participate in it,
 - having failed to provide sufficient instructions to his legal representatives to enable them to represent him at the case management discussion,
 - having failed to provide any further challenge to the application,the tribunal considered that it was reasonable that an order for eviction be granted.

DECISION

The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 of Schedule 3 to said Act

Order not to be executed prior to 12 noon on 25th August 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.

Virgil Crawford

18th July 2025

Legal Member/Chair

Date