

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/24/2398

Re: Property at 83 (2F1) Haymarket Terrace, Edinburgh, EH12 5HD (“the Property”)

Parties:

Mrs Jennifer Galbraith, Upper Kinneil Farm, Linlithgow, West Lothian, EH49 7RJ (“the Applicant”)

Mr Stuart McAlpine, Ms Estelle Decavele, Ms Ioanna Tziafalia (sba), 83 (2F1) Haymarket Terrace, Edinburgh, EH12 5HD; 58 - 8 Henderson Street, Edinburgh, EH6 6DE; UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member) and Elaine Munroe (Ordinary Member)

Background

2. This was a case management discussion (‘CMD’) in connection with an eviction application in terms of rule 109 of the Tribunal rules of procedure and section 52 of the Private Housing (Tenancies)(Scotland) Act 2016, (‘the Act’). The Applicant attended. The second Respondent Ms Decavele attended. The third named Respondent has left the property and service was effected by advertisement. The Tribunal had sight of the certificate to confirm this. The first named Respondent did not attend and was not represented. The Tribunal had sight of the email dated 16 June 2025 intimating the CMD to him and was satisfied that he had appropriate notice in terms of rule 24. The Tribunal proceeded in their absence in terms of rule 29. The Tribunal hearing did not conclude until 2.25pm and neither Respondent tried to attend the call late.

3. There is a procedural history to the application. An eviction order was granted at the first CMD on 19 February 2025 in the absence of the Respondent. On 5 March 2025 the first Respondent contacted the Tribunal administration to seek a recall of the eviction order on the basis that he was unaware of the CMD. He also stated that

sheriff officers had left the CMD papers with an elderly neighbour in January 2025 and he only became aware of the application when he received the Tribunal written decision two days before.

4. On the 24 March 2025 the Tribunal recalled the decision of 19 February 2025 in accordance with rule 30 of the rules on the basis that somewhat unusually, the execution of service by Sheriff Officers stated that the papers were not left at the property.

5. The Tribunal had before it the following copy documents:

- (1) Private Residential Tenancy Agreement ('PRT').
- (2) Notice to leave dated 5 February 2024.
- (3) Proof of service of the notice to leave dated 5 February 2024. .
- (4) Land certificate.
- (5) Landlord registration.
- (6) Section 11 notice and proof of service.
- (7) Quotation of architectural services, fee schedule and exchange of emails with architect dated 2 February 2024.
- (8) Howdens estimates dated 6 February 2025.

Case management discussion

The Applicant's position

6. The Applicant is seeking an eviction order of new. Mr McAlpine continues to live in the property. The other two tenants left around January 2024. There has been no rent paid since February 2024 and there are rent arrears of £17,500. The Applicant does not accept that Mr McAlpine was unaware of the last CMD. She has spoken the the elderly neighbours referred to in the recall decision and they deny receiving any papers from Sherriff Officers on his behalf. Mrs Galbraith plans to refurbish the property and this will include installing a new boiler and remodelling the kitchen. Mrs Galbraith is unaware of any eligibility to housing benefit or universal credit on the part of Mr McAlpine. She has had no contact with him since August 2024 despite her attempts to engage. As far as she is aware he was a student at St Andrews University but he may have left.

The Respondent's position

7. Ms Decavele moved out of the property in January 2024 and wishes to have the tenancy brought to an end by the eviction application being granted.

8. Findings in fact

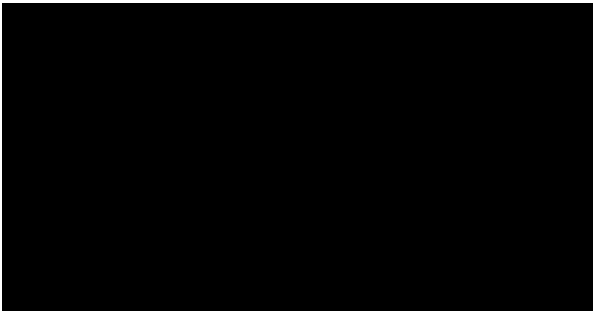
- The Applicant is the owner and registered landlord of the property.
- The parties entered into a PRT for the let of the property around 1 May 2022.
- The Respondent was served with a valid notice to leave on 5 February 2024.
- The Applicant intends to refurbish the property.
- The first named Respondent continues to live in the property and the other two tenants have left.
- There are rent arrears of around £17,500.
- The rent arrears are not due to a delay or failure in payment of a relevant benefit.

Reasons

9. This was an undefended eviction application. The Tribunal was satisfied that it had sufficient information before it to make a decision and the procedure had been fair. The Tribunal was satisfied that it was reasonable in all of the circumstances to grant the eviction order.

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.



25 July 2025

Date