

Housing and Property Chamber

First-tier Tribunal for Scotland



Decisions with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 51 and 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Refs: FTS/HPC/EV/24/5767 and FTS/HPC/CV/24/5768

Re: Property at Strathairlie Cottage, Old Rayne, Inch, AB52 6RX (“the Property”)

Parties:

A.G. Stuart Holdings Ltd, Ladeside Pitmachie, Old Rayne, Inch, AB52 6RX (“the Applicant”) and

Raeburn Christie Clark & Wallace LLP 12-16 Albyn Place, Aberdeen, AB10 1PS (“the Applicant’s Representative”) and

Mr Martin Wallace, Strathairlie Cottage, Old Rayne, Inch, AB52 6RX (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

M Booth - Ordinary Member

Decisions in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines as follows:

- 1) To grant an eviction order; and**
- 2) To grant an order for payment to the Applicant, A.G. Stuart Holdings Ltd,, by the Respondent, Mr Martin Wallace, of the sum of £8400.00 with interest thereon at the rate of 4% per annum from 1st August 2025 until payment.**

Background

- 1. These are Applications for an eviction order in terms of Rule 109 (Application for an eviction order) and for a payment order in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of The First-tier**

Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

Case Management Discussion on 1st August 2025

2. A Case Management Discussion (“CMD”) proceeded by remote teleconference call at 10.00am on 1st August 2025.
3. The Applicant’s Representative’s Mr A Doran attended. The Respondent, Mr Martin Wallace, did not attend. He was not represented and there was no explanation for his absence. The Tribunal had noted that Sheriff Officers had served the Application papers, and notification of the CMD, on Mr Wallace by posting those papers through the letterbox at the Property on 16th June 2025. They further noted that Mr Wallace had sent an e-mail to the Tribunal’s office on 30th June 2025 in which he referred to problems with the windows, carpets and heating within the Property. The Tribunal also noted that the Tribunal’s office had sent copies of the Applicant’s Representative’s further written submissions, and updated rent statement, submitted on 17th July 2025, to Mr Wallace by e-mail on 22nd July 2025.
4. Mr Doran referred to the Applications and the subsequent submissions which had been sent to the Tribunal’s office on behalf the Applicant. He stated that the rent arrears currently owing are in the sum of £8,400.00, and that Mr Wallace last paid rent, in the sum of £600.00, in August 2024. With specific reference to the further written submissions sent to the Tribunal’s office on 17th July 2025, Mr Doran said that after Police Scotland raids at the Property, on 29th May and 5th June 2025, the Applicant’s letting agent had attended to secure the Property and found that it was unoccupied. He stated that prior to May 2025 the letting agent, and contractors, had attended at the Property and also found it to be unoccupied. Mr Doran stated that when Mr Wallace had resided in the Property he had done so alone and that he was not aware of Mr Wallace’s current employment position or if he has any medical conditions. He said that, following the raids, the Applicant had been told by Police Scotland to contact them by dialling 999 if they or their letting agent became aware that Mr Wallace has returned to the reside in the Property. Mr Doran asked that the Tribunal grant the orders sought in both Applications, with the payment order being in the sum of £8,400.00 with interest at the rate of 4% per annum.

Findings in Fact and Law and Reasons for Decisions

5. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) the Tribunal is to issue an eviction order under a PRT if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
6. Schedule 3 (12) to the 2016 Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
7. Section 71 of the 2016 Act provides as follows:
 - (1) In relation to civil proceedings arising from a private residential tenancy-

(a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),

(b) a sheriff does not have competence or jurisdiction.

(2) For the purposes of subsection (1), civil proceedings are any proceedings other than-

(a) the prosecution of a criminal offence,

(b) any proceedings related to such a prosecution.

8. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for an eviction order and order for payment of unpaid rent against a tenant (such as the Respondent) in respect of a tenancy such as the tenancy agreement of the parties.

9. Having considered all of the Applications papers, written submissions and the oral submission of Mr Doran at the CMD, the Tribunal finds in fact, on a balance of probabilities, that the Applicant, through their Representative, has provided the Tribunal, in their Application for an eviction order, with copies of the parties' PRT, the Notice to Leave served on the Respondent Mr Wallace, and the Section 11 Homelessness etc Act Notice subsequently issued to Aberdeenshire Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the legislation and the procedures set out in the legislation had been correctly forwarded and applied. The Application for an eviction order proceeds in terms of Schedule 3(12) to the 2016 Act. The Tribunal further finds in fact that when the NTL was served on Mr Wallace he had been in rent arrears for three consecutive months and that this was also the case when both Applications were lodged with the Tribunal's office, on 17th December 2024, and continues to be the case. Mr Wallace has not paid any rent since August 2024 and is currently in rent arrears in the sum of £8,400.00.

10. In making its findings in fact the Tribunal relied on the documentation within the Applications and, in particular, on the terms of the further written submissions lodged by the Applicant's Representative. They also relied on the oral submission of Mr Doran, the terms of which were consistent with the terms of the relevant documentation.

11. Further, the Tribunal, in making their findings in fact, placed reliance on the absence of any contradictory information or submissions from the Respondent Mr Wallace. The papers in respect of both Applications had been served effectively on him, and the details of the CMD had been sent to him. He was also sent copies of the Applicant's Representative's further submissions, and updated rent statement, by the Representative, and also by the Tribunal's office. Mr Wallace is aware of the important nature of the Applications, but having sent an e-mail to the Tribunal's office on 30th June 2025 regarding alleged windows, carpets and heating problems at the Property he has not lodged any further representations regarding the merits of the Applications and the reasonableness of the grant of the orders sought.

12. Accordingly, the Tribunal find in law that the ground in Schedule 3 (12) to the 2016 Act is met as the Respondent Mr Wallace has been in rent arrears for three or more consecutive months and, also, that it is reasonable that an eviction order be granted.
13. The Tribunal also find in law that Mr Wallace is obliged to pay rent to the Applicant, in terms of the parties PRT, and, having not done so consistently, is in rent arrears in the sum of £8,400.00. The Tribunal therefore find that the Applicant, A.G. Stuart Holdings Ltd, is entitled to an order for the Respondent Mr Wallace's payment to them of the sum of £8,400.00. The Tribunal further find that it is reasonable to apply interest to the payment amount ordered at the rate of 4% per annum, as requested by the Applicant through their Representative.

Decisions

14. Therefore, the Tribunal makes an order for eviction of the Respondent, Mr Martin Wallace, from the Property at Strathairlie Cottage, Old Rayne, Inch, AB52 6RX and, also, an order for payment to the Applicant, A.G. Stuart Holdings Ltd, by the Respondent, Mr Martin Wallace, of the sum of £8,400.00 with interest at the rate of 4% per annum until payment.

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.

1st August 2025
