



**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/25/0047**

**Re: Property at 50 Manse View, Motherwell, ML1 5TB (“the Property”)**

**Parties:**

**WAB PROPERTIES LIMITED, 34 Neuk Drive, East Kilbride, G74 4FH (“the Applicant”)**

**Miss Amy Devine, 50 Manse View, Motherwell, ML1 5TB (“the Respondent”)**

**Tribunal Members:**

**Melanie Barbour (Legal Member) and Angus Lamont (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.**

**Background**

1. An application was made under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.

2. The application contained: -
  - a. the tenancy agreement,
  - b. the notice to leave with evidence of service
  - c. section 11 Notice with evidence of service
  - d. rent statement
  - e. letters to the tenant about rent arrears
3. The applicant submitted further correspondence to the tribunal on the day of the tribunal, namely, an updated rent statement.
4. A case management discussion took place on 5 August 2025. In attendance was the applicant. The respondent did not appear. The tribunal was prepared to proceed in their absence, given they had notice of the Case Management Discussion by a sheriff officer on 16 June 2025.

### Discussion

5. The applicant advised that the applicant was seeking an order for recovery of possession of the property under ground 12 (three months' rent arrears).
6. He advised that the rent arrears had been increasing since the application was made. The last payment to rent was in October 2024. The rent arrears were now £5,709.00.
7. The applicant's agents had sent the respondent a number of letters about the rent and arrears; they had also attended at the property to try to make contact with the respondent. The information sent to the respondent regarding the rent arrears provided them with advice on agencies to contact who may be able to help them deal with the rent arrears. There had been no response by the respondent to address the arrears, and the agents had not been able to gain access to the property. The respondent had failed to engage. Rent arrears were accruing, and there was no payment arrangement in place; accordingly, he sought an order for eviction.

8. The applicant thought that the respondent was on benefits; however, she was retaining the benefits and not making any rent payments. The applicant advised that the respondent was a young woman in her 20's. She did not have anyone living with her. He had no other information about the respondent.
9. In relation to the landlord's circumstances, the applicant advised that he was the managing director for the applicant. There were two other directors. The firm owned about 8-10 properties in Scotland. They owned some other properties in England. He advised that the non-payment of rent had a detrimental effect on the company. It will impact them financially they must pay wages, letting agent fees, insurance, and ongoing maintenance for the properties. They relied on rent to maintain the business. There was no mortgage on the property.

### Findings in Fact

10. The Tribunal found the following facts established: -
11. There existed a private residential tenancy.
12. The tenant was Amy Devine.
13. The landlords were WAB Properties Limited.
14. The property was 50 Manse View, Motherwell.
15. It had commenced on 15 May 2023.
16. The tenancy stated that rent was £450 per calendar month payable in advance. There had been a rent increase.
17. There was submitted a notice to leave dated 19 November 2024, stating that an application would not be made until 25 December 2025. It sought eviction under ground 12 rent arrears. It set out that the respondent had been in rent arrears for more than three consecutive months. The notice to leave had been served on the tenant. There was evidence of service.
18. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service.
19. On 19 November 2024 rent arrears were £1,173.00.

- 20. As of 5 August 2025, the arrears were £5,709.00.
- 21. There were arrears on the rent account since at least August 2023.
- 22. The last payment to rent was made on 7 October 2024.
- 23. There was evidence that the pre-action protocol requirements had been followed.
- 24. There was no evidence of failure or delay in any benefit payment to the respondent.
- 25. The respondent had regularly failed to pay their rent and arrears. The arrears had been steadily accruing.
- 26. The respondent had failed to enter into a repayment arrangement with the landlords

### Reasons for Decision

- 27. Section 51 of the 2016 Act provides the Tribunal with the power to grant an order for eviction for a private residential tenancy if it finds that one of the grounds in Schedule 3 of the Act applies.
- 28. The ground which the Applicant seeks eviction under is ground 12. It is in the following terms :-

#### *12 Rent arrears*

*(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*

*(2) [...]2*

*(3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*

*(a) for three or more consecutive months the tenant has been in arrears of rent, and*

*(b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.*

*(4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider [ — ] 3 [*

- (a) whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and*
- (b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. ] 3*
- (5) For the purposes of this paragraph— ...*

29. The applicant confirmed that they sought an order for eviction based on the fact that the respondent had been in rent arrears for three or more consecutive months. When the notice to leave was served on 19 November 2024 the respondent had been in rent arrears for well over three months. The arrears had started to accrue in August 2023. There did not appear to be any benefit issues which were causing the arrears. It appeared that the first part of ground 12 was met.
30. Given that the first part of the ground is met, the tribunal is therefore required to proceed to consider if it would be reasonable to grant the order.
31. We find it would be reasonable to grant the order for eviction; in coming to this conclusion, we took into account the following matters:-
32. Matters in support of granting the order were as follows:- There was no appearance by the respondent. The arrears were now £5,709. They had increased considerably since October 2024 when the last payment had been received. The arrears had been accruing since around August 2023. The respondent had made no payments towards the rent or arrears since October 2024. There were no proposals to repay the arrears. The respondent had not engaged with the letting agents. The letting agent had informed the respondent regularly about the rent arrears and provided advice about where to get help. These efforts had not been successful.
33. There appeared to be only the respondent in the property. There were no dependents. We were not aware of any vulnerabilities or issues which would mitigate in favour of the respondent.
34. Matters against the order being granted were that the applicants were a small to medium commercial enterprise and should expect to take some risk renting out properties. However, we were advised that they rely on the rental income to service their business. While we consider that a commercial business may

have to take some risk, in this case the respondent had failed to enter into any arrangement or discuss the rent arrears and had stopped paying anything since October 2024. We consider on balance that this is also a reason weighed in favour of granting the order.

35. In balancing up the various factors before us, we do not consider that the factors against the order being granted outweigh the reasons why it should be granted. While the applicants may expect to suffer some financial risk in renting out properties, they were a small to medium commercial enterprise, and they relied on the rental income to service the company. There have been clear attempts by the applicant's agent to try and engage with the respondent to pay the rent, and these attempts have been successful. The arrears are now almost £6,000, which is a significant sum of money. There is no apparent reason for the failure to pay the rent or the arrears. We considered that the attempts made by the applicants were reasonable. We consider it would be reasonable to grant an order for eviction.

36. Accordingly, considering the papers before us and the oral submission by the applicants the tribunal was prepared to grant the order for recovery of possession, given that the first part of ground 12 was met and in all the circumstances it appeared to us to be reasonable to grant the order.

### Decision

37. The Tribunal grants an order in favour of the Applicants against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

### **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.**

# M Barbour

6 August 2025

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Legal Member/Chair

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Date