



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/25/0150**

**Re: Property at 64/1 Parkend Road, Saltcoats, KA21 5PJ (“the Property”)**

**Parties:**

**Mr Robin McMaster Blythe, 8 Castleburn Gardens, Kilwinning, KA13 7ND (“the Applicant”)**

**Mr George Park, 64/1 Parkend Road, Saltcoats, KA21 5PJ (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Jane Heppenstall (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 for eviction.**

**Background**

1. By application dated 15 January 2025 the applicant seeks an order for eviction, relying on ground 12 (rent arrears for three or more consecutive months) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The application was conjoined with application reference FTS/HPC/CV/25/0148 in terms of which the applicant seeks an order for payment in respect of rent arrears.
2. The applicant lodged the following documents in advance of the case management discussion (“cmd”):
  - Copy tenancy agreement
  - Notice to leave with proof of service

- Section 11 notice to local authority
  - Rent statement from 1 March 2022
  - Pre-action Requirement correspondence
3. A case management discussion (“cmd”) was scheduled to take place via teleconference on 30 July 2025.
  4. Prior to the cmd the applicant’s representative submitted copies of emails from the respondent sent to them after the application had been submitted.
  5. On 25 July 2025 the respondent emailed the Tribunal stating:

*Can I please have more time to seek legal consultation as I have been deliberately obfuscated and have not had time to apply for legal aid or help with legal costs as I think my naivety to procedures has been deliberately taken advantage of.*

6. The Tribunal considered the email as an application to postpone the cmd. In light of the lateness of the request and the lack of any supporting documents to show that the respondent had sought legal advice the Tribunal determined not to postpone the cmd. On the morning of the cmd the Tribunal administration emailed the respondent stating:

*Your application for a postponement has not been granted. The case management discussion will proceed at 10am and you should join the teleconference at that time. You will have an opportunity to make submissions regarding legal representation at the discussion .*

### **Case management discussion (“cmd”) – teleconference – 30 July 2025**

7. The applicant was represented by Mr Ferry, solicitor, Wallace Hodge solicitors. The respondent was not present or represented. The Tribunal clerk attempted to telephone Mr Park shortly after 10am on a mobile number provided by him to the Tribunal to ask him to join the call. Mr Park did not answer the call. A voice mail message was left reminding Mr Park to join the cmd. The Tribunal was satisfied that the respondent had received proper notice of the cmd and proceeded with the cmd in his absence in terms of rule 29.
8. Prior to the cmd the applicant had lodged an updated rent account showing that arrears had increased to £2894.84 by July 2025. Mr Ferry sought an order for eviction. He stated that the respondent had been in some level of arrears since

July 2022 as shown in the rent accounts that had been submitted. He stated that arrears began to build up substantially since June 2024. He referred to email correspondence that had been submitted which showed that the respondent's relationship with the previous letting agents, Ayr Property had deteriorated. Mr Ferry stated that in emails to his colleague, the respondent had referred to being employed by the local authority and also being in receipt of Universal Credit however there was no information that suggested that the arrears figure was in any part due to any issue with benefits. Mr Ferry stated that the applicant had complied with the pre action requirements. He stated that the last contact from the respondent to the letting agent was on 16 May 2025. Mr Ferry stated that the respondent had raised issues relating to repairs required to the boiler and the back door of the property however the respondent had refused access when this had been requested.

9. Mr Ferry stated that the respondent had communicated with his colleague to advise that he had sought advice from the local authority regarding alternative accommodation. He also referred to viewing an alternate property.
10. Mr Ferry stated that the applicant was the landlord of 3 properties. The respondent's conduct was having a negative impact on the applicant's finances due to the rent arrears. In addition the applicant intended to remortgage the property however the process was being hampered due to the respondent's refusal to allow access for an inspection to be carried out. Mr Ferry stated that the applicant had at all times been the owner of the property however there had been a change in the letting agent managing the property during the tenancy, most recently Lomond Property having taken over from Ayr Estate Agents.
11. Mr Ferry stated that the applicant was not aware of any vulnerability of the respondent. He stated that as far as the applicant was aware the respondent had a daughter who did not reside with him. In the circumstances Mr Ferry submitted that it was reasonable to grant an order for eviction.

### **Findings in fact and law**

12. The respondent entered into a tenancy agreement with the applicant's letting agents, Secure Letting with a commencement date of 14 January 2019.
13. The applicant has transferred agency for the property to Lomond Property since December 2024.

14. Initial monthly rent due in terms of the agreement was £350. The current monthly rent is £360.50..
15. Arrears as at 15 January 2025 amounted to £1843.94
16. Arrears as at July 2025 have increased to £2894.84.
17. The respondent has been in arrears of rent continuously since October 2023. Arrears continue to rise on a monthly basis.
18. The applicant complied with the pre-action requirements set out in the Rent Arrears Pre Action-Requirements (Coronavirus) (Scotland) Regulations 2020.
19. Ground 12, in schedule 3 of the 2016 Act has been established.
20. The respondent resides alone.
21. The respondent did not attend the case management discussion on 30 July 2025 to oppose an order for eviction being granted.
22. The respondent did not lodge any documentary evidence to support defence of the application on the grounds of reasonableness.

### **Reasons for the decision**

23. Rule 17 (4) states:

*The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.*

24. Rule 18 states:

*Power to determine the proceedings without a hearing*

**18.—(1) Subject to paragraph (2), the First-tier Tribunal—**

*(a) may make a decision without a hearing if the First-tier Tribunal considers that—*

*(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and*

*(ii) to do so will not be contrary to the interests of the parties; and*

*(b) must make a decision without a hearing where the decision relates to—*

*(i) correcting; or*

*(ii) reviewing on a point of law,*

*a decision made by the First-tier Tribunal.*

*(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.*

25. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

26. The Tribunal had regard to the application and the documents lodged by the applicant. The Tribunal also took into account emails submitted by the applicant that that contained correspondence between the parties after the application had been submitted. The Tribunal also took into email correspondence received from the respondent and Mr Ferry's submissions at the cmd.

27. Ground 12 states:

*12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*

*(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—*

*(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.*

28. The Tribunal was satisfied on the basis of the rent accounts that had been lodged that the respondent had been in arrears of rent for a period in excess of three months.

29. The Tribunal considered whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against.

30. The Tribunal determined that the correspondence sent to the respondent complied with the pre-action requirements. The respondent had regard to the correspondence that had been submitted and accepted that the respondent had been provided with information relating to the rent arrears and guidance on how to access assistance in compliance with the pre-action requirements.
31. The respondent had not lodged any information which sought to demonstrate that the arrears were in any part due to issues with benefits. The Tribunal took into account the contents of the emails sent by the respondent to the applicant.
32. The Tribunal took into account the information provided by Mr Ferry. The Tribunal noted that the arrears continued to rise. Between 25 March 2025 and the date of the cmd the respondent had paid a total of £215.91 towards the rent account which fell well short of the rental liability.
33. The Tribunal took into account that the respondent had requested time to seek legal advice. However against that the Tribunal gave particular weight to the fact that the respondent did not attend the cmd, having been advised to do so and did not oppose the application at the cmd. The Tribunal also gave weight to the unopposed submissions that the respondent's conduct was having a negative impact on the applicant's finances.
34. The Tribunal gave weight to information provided by Mr Ferry that the respondent resided alone and had no known vulnerabilities. The Tribunal also gave weight to the fact that he had stated in email correspondence to the applicant that he had sought assistance from the local authority to find alternative accommodation. .
35. In the event that the respondent had attended the cmd to set out reasons why he required more time to obtain legal advice or to oppose an order being granted the Tribunal would have taken any additional information into account however in the absence of the respondent attending the cmd to oppose an application the Tribunal determined that it was not appropriate to fix a hearing and that in the foregoing circumstances it was reasonable to grant an order for eviction.

## **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.

Mary-Claire Kelly

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Legal Member/Chair

30 July 2025  
Date