



**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/25/0847**

**Re: Property at 20 Turnberry Drive, Hamilton, ML3 9XX (“the Property”)**

**Parties:**

**Mr Christopher Foley, 114 Woodhead Green, Hamilton, ML3 8TW (“the Applicant”)**

**Miss Laura Cuthbertson, 20 Turnberry Drive, Hamilton, ML3 9XX (“the Respondent”)**

**Tribunal Members:**

**Andrew Upton (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that (i) the Respondent has been in rent arrears for three consecutive calendar months, (ii) it is reasonable to grant an eviction order, and (iii) the Private Residential Tenancy between the parties shall terminate on 15 September 2025.**

**Statement of Reasons**

1. This Application called for its Case Management Discussion by teleconference call on 14 August 2025. The Applicant was represented by Ms Wooley, solicitor. The Respondent was present on the call.
2. In this Application the Applicant seeks an eviction order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. He claims that he is the landlord, and the Respondent the tenant, of the Property under a Private Residential Tenancy Agreement. He says that the Respondent has been in rent arrears for a period of three consecutive calendar months, thus engaging Ground 12 of Schedule 3 to the 2016 Act for eviction. He says that he has

served Notice to Leave, which has expired, and that it is reasonable to grant the eviction order.

3. The Respondent conceded that she is, and has been, in rent arrears as claimed by the Applicant. She also did not contest the Applicant's contention that it was reasonable to grant the eviction order. However, that notwithstanding, the Tribunal made further enquiries into the parties' respective positions. Having done so, the Tribunal determined that the following facts, as contended by the parties, were agreed and that no other factors required to be taken into account when assessing reasonableness:-
- a. The Property is a ground floor one-bedroom flat.
  - b. There is outstanding mortgage lending on the Property.
  - c. The Respondent is 31 years old.
  - d. The Respondent lives alone.
  - e. The Respondent is in receipt of medical treatment for ongoing mental health conditions. She is on medication, and is on a waiting list for counselling.
  - f. The Property has not been adapted for the Respondent's use.
  - g. The Respondent is not currently in receipt of any local specialist services.
  - h. The Respondent is currently unemployed.
  - i. The Respondent first fell into rent arrears during a period of unemployment between March 2024 and August 2024, during which time she claimed universal credit.
  - j. During the period between August 2024 and June 2025, the Respondent was employed under a short-term contract by His Majesty's Revenue and Customs.
  - k. During the last two months of her contract with HMRC, the Respondent was absent from work due to poor mental health. She was in receipt of statutory sick pay during that period.
  - l. The Respondent is currently unemployed, but is actively looking for employment.
  - m. The Respondent claimed for universal credit at the end of June 2025, but has not yet received a payment. Her first payment, which may include a backdated payment, is due to be received by her at the end of August 2025.
  - n. The Respondent has made enquiries with the local authority regarding homelessness, and has been told to keep the homelessness team informed as to the progress of this Application.
  - o. The Respondent has made initial enquiries with the Citizen's Advice Bureau and a debt advisor, but has not yet arranged meetings to obtain advice on her situation.
  - p. The Respondent intends to make payments towards her arrears when she is able to, but will not be in a position to do so unless and until she is employed.
  - q. The Applicant is employed as a joiner.
  - r. The Property is the Applicant's only rental property.
  - s. The rent recovered for the Property is principally applied by the Applicant to the mortgages for both the Property and his own home.

4. Ms Wooley invited the Tribunal to grant the eviction order. She submitted that in all of the circumstances it was reasonable to do so. If the order was granted, it would have the effect of arresting the Respondent's continuing debt by bringing the Tenancy to an end. Additionally, the eviction would trigger the local authority's statutory duty to find suitable accommodation for the Respondent.
5. In terms of Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017, the Tribunal may do anything at a Case Management Discussion that it may do at a Hearing, including make a Decision. In terms of Rule 2, when making a Decision, the Tribunal must have regard to the overriding objective to deal with proceedings justly, including by avoiding unnecessary delay.
6. The Tribunal was satisfied that there was no utility in fixing a Hearing on this Application. There was no dispute between the Parties regarding the relevant facts or the points to be taken into account by the Tribunal. With the Respondent conceding that she was in arrears, the only question for the Tribunal to determine was whether it was reasonable in all of the circumstances to grant the eviction order.
7. Having considered the facts as agreed between the Parties, the Tribunal was satisfied that it was reasonable to grant the eviction order. Having considered the rent schedule, it was apparent that the Respondent has been in rent arrears for a continuous period of eighteen months. During that time, the arrears have continued to increase. Even after her employment on a short-term contract, no attempt seems to have been made to address the arrears. Since the Application was raised in February 2025, the arrears have increased from £1,861.95 to £4,268.95. Whilst that can be attributed to the Respondent's health and unemployment, and to a minimal extent by a minor delay in receiving benefit, the pattern which has emerged is that the Respondent cannot afford her current rent and, notwithstanding her best intentions, has no immediate prospect of being able to repay her arrears. Indeed, it seems inevitable that the arrears will only increase if the tenancy continues. It is not the Applicant's responsibility to bear the brunt of the Respondent's financial difficulties. It seems likely that continued non-payment of rent is likely to cause him financial distress. The Tribunal agreed with the submission made by Ms Wooley that it was appropriate to terminate the tenancy in order to draw a line in the sand for the purposes of arrears. It likely affords the Respondent with the best opportunity to make a fresh start.
8. Accordingly, the Tribunal unanimously determined that it was reasonable to grant the eviction order. For the purposes of section 54 of the 2016 Act, the Private Residential Tenancy between the Parties will terminate on 15 September 2025, being the date when the eviction order may be enforced from.

## 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.

Andrew Upton

14 August 2025

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Legal Member/Chair

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Date