



Decision 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 Reference No: FTS/HPC/EV/24/5857

Re: Property at Aros, Main Street, Taynuilt, PA35 1JE (“the Property”)

Parties:

Ms Gillian Barton, Ichrachan House, Taynuilt, Argyll, PA35 1HP (“the Applicant”) and

Davidson Chalmers Stewart LLP, 12 Hope Street, Edinburgh, EH2 4DB (“the Applicant’s Representative”) and

Mr Ruairidh Duncan, Aros, Main Street, Taynuilt, PA35 1JE (“the Respondent”)

Tribunal Members:

**G McWilliams- Legal Member
T Cain - Ordinary Member**

Decision in absence of the Respondent:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines to grant an eviction order.

Background

1. This is an Application for an eviction order in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

Case Management Discussion

2. A Case Management Discussion (“CMD”) proceeded by remote teleconference call at 10am on 16th July 2025. The Applicant’s Representative Ms C Matthews attended. The Respondent Mr Duncan did not attend and was not represented. Mr Duncan had requested a postponement of the CMD on 11th July 2025. He was notified, by email sent from the Tribunal’s office, that the Tribunal had refused the request, and that the CMD would proceed, on 15th July 2025.

3. Ms Matthews referred to the Application case papers, in particular the Rent Statement showing outstanding rent of £38,275.00 due at 1st December 2024, when this Application was submitted. She stated that Mr Duncan has not paid any rent since 1st December 2024 and that the current rental arrears amount exceeds £45,000.00. Ms Matthews also referred to the Renunciation of Lease document which she had submitted to the Tribunal's office on 15th July 2025. The document was signed by the parties on 1st June 2025 and registered in the Books of Council and Session on 16th June 2025. The Renunciation document principally stated that the Applicant, Ms Barton, had paid the sum of £10,000.00 to the Respondent, Mr Duncan, and he renounced his interest in his lease of the Property with a Renunciation date of 11th June 2025. Ms Matthews said that, notwithstanding the terms of the Renunciation document, Mr Duncan remains in the Property. She stated that she understood that Mr Duncan has been residing alone there. Ms Matthews was not aware of any other personal and occupational information in respect of Mr Duncan. She submitted that given the extent of the arrears of rent, and as Mr Duncan had renounced his interest in the lease of the Property, it was appropriate and reasonable to have the eviction order granted.

Findings in Fact and Law and Reasons for Decision

4. 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 private residential tenancy ("PRT") if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
5. Schedule 3 (12) (1) to the 2016 Act provides that it is an eviction ground that a tenant has been in rent arrears for three or more consecutive months.
6. Therefore, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for an eviction order against tenants (such as the Respondent) in respect of a tenancy such as the tenancy agreement of the parties.
7. Having considered all of the documentary evidence, representations and the submission of Ms Matthews, the Tribunal finds in fact that the Applicant, Ms Barton, has provided the Tribunal, through her Representative, in their Application for an eviction order, with copies of the Notice to Leave ("NTL") served on the Respondent on 3rd April 2024 and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to Argyll and Bute Council on 18th December 2024. These documents had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. The NTL, and the Application for an eviction order, proceed in terms of Schedule 3 (12) in the 2016 Act. The Tribunal further finds in fact that when the Application was lodged with the Tribunal's office, in December 2024, the Respondent, Mr Duncan, was in rent arrears of £4985.57. He has not paid any rent to Ms Barton since. The current rent arrears are in the sum of over £45,000.00. Mr Duncan has renounced his interest in his lease of the Property, at 11th June 2025, but remains resident there.
8. In making its findings in fact the Tribunal relied on the documentation in the Application papers, and subsequently submitted, as well as the oral submission of

Ms Matthews, the terms of which were consistent with the terms of the relevant documentation.

9. The Tribunal, in making their findings in fact, also placed reliance on the absence of any contradictory information or submissions from the Respondent Mr Duncan. He is aware of the important nature of the Application but he has not attended at the CMD and has not made any oral or written representations regarding the merits and the reasonableness of the grant of the eviction order sought.
10. Accordingly, the Tribunal finds in law that the ground in Schedule 3 (12) of the 2016 Act is met as the Respondent Mr Duncan has been in rent arrears for three or more consecutive months and that it is reasonable that an eviction order be granted.

Decision

11. Therefore, the Tribunal makes an order for eviction of the Respondent Mr Ruairidh Duncan from the Property at Aros, Main Street, Taynuilt, PA35 1JE.

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.



16th July 2025