

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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/0866

Re: Property at 36 Helmsdale Drive, Dundee, DD3 0NH (“the Property”)

Parties:

Miss Maira Suhail Carim, House 94, Street 12, Cavalry Ground, Lahore, Pakistan (“the Applicant”)

Miss Gemma Hutchinson or Mullen, Mr Dean Thomas Mullen, 36 Helmsdale Drive, Dundee, DD3 0HN (“the Respondents”)

Tribunal Members:

Alastair Houston (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be made on the basis of paragraphs 1 and 12 of schedule 3 of the 2016 Act.

1. Background

- 1.1 This is an application under rule 109 of the Chamber Rules whereby the Applicant sought an eviction order in respect of the private residential tenancy between the parties. The application was conjoined with the application reference FTS/HPC/CV/25/0875. The application was accompanied by, amongst other things, copies of the notice to leave given to the Respondents, a rent statement and correspondence sent by the Applicant’s representative to the Respondents.
- 1.2 No written representations by the Respondents had been received by the Tribunal in advance of the Case Management Discussion.

2. The Case Management Discussion

- 2.1 The Case Management Discussion took place on 14 July 2025 by teleconference. The Applicant attended personally and was represented by Miss Ilonka of Rollos Solicitors. The Respondents did not attend and were not represented.
- 2.2 The Applicant's representative confirmed that the applications were insisted upon and wished to proceed in the Respondents' absence. Given that intimation of the applications and Case Management Discussion had been given to them by sheriff officers, the Tribunal considered it appropriate to proceed in their absence as permitted by rule 29 of the Chamber Rules.
- 2.3 The Applicant's representative confirmed that the tenancy between the parties commenced in December 2019. The rent payable by the Respondents was £500.00 per month. At the time of the making of the applications, £8000.00 in rent had gone unpaid. The rent arrears as at 14 July 2025 were £10,500.00. There had been no contact with the Respondents since the applications were made. The Respondents were understood to be in receipt of housing benefit but this was not being paid to the Applicant. They did not have any children. The Applicant relied on payment of rent as a significant proportion of her income and had now made the decision to sell the property due to the income lost to date.
- 2.4 Following a short adjournment to consider the applications, the Tribunal granted the eviction order.

3. Reasons For Decision

- 3.1 The Applicant was seeking an eviction order in terms of paragraphs 1 and 12 of schedule 3 of the 2016 Act. In terms of paragraph 1, the Tribunal was to make an order if the Applicant:-

(a) is entitled to sell the let property,
(b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and
(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

The Applicant had provided evidence of her intention to sell the property in the form of a letter instruction solicitors to market it for sale. There was nothing to indicate her intention was anything other than genuine.

- 3.2 Paragraph 12 of schedule 3 is in the following terms:-

(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.

The rent statement provided by the Applicant demonstrated that the Respondents had been in arrears of rent since November 2023. They had therefore been in arrears for a period in excess of three months, both at the date of service of the notice to leave and at the Case Management Discussion.

3.3 The issue for the Tribunal was therefore one of reasonableness. Given that there were no representations made on behalf of the Respondents, the Tribunal did not consider that a hearing was required. The Tribunal had regard to:-

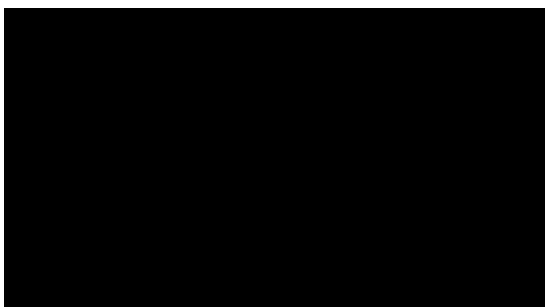
(a)whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and

(b)the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.

The Tribunal further approached the issue of reasonableness in accordance with the case of *Barclay v Hannah* 1947 SC 245 whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the application was made. There was nothing to suggest the Respondents had experienced a failure in payment of benefits to which they were entitled to. The Applicant had complied with the pre-action requirements with a number of letters sent to the Respondents providing them with the necessary information. The arrears were significant and no proposals for repayment had been made. The Applicant had now made a reasoned decision to sell the property and, accordingly, the Tribunal considered it reasonable to make an eviction order.

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.



14 July 2025
Date

