

**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/24/5851**

**Re: Property at 26 Madeira Street, Edinburgh, EH6 4AL (“the Property”)**

**Parties:**

**Mr Alastair Reeder Ness, Mr David John Ness, 15B Ewerland, Edinburgh, EH4 6DH; Camps Villa, The Camps, Kirknewton, East Calder, EH27 8DN (“the Applicants”)**

**Neil Diarmid Ross, 26 Madeira Street, Edinburgh, EH6 4AL (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Elizabeth Williams (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicants. The Order is superseded until 4<sup>th</sup> November 2025**

**Background**

1. An application was received by the Housing and Property Chamber dated 11<sup>th</sup> December 2024. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 23<sup>rd</sup> July 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 4<sup>th</sup> September 2025 at 10am by teleconferencing. The letter also requested all written representations be submitted by 13<sup>th</sup> August 2025.
3. On 24<sup>th</sup> July 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by leaving it in the hands of his son. This was evidenced by Certificate of Intimation dated 24<sup>th</sup> July 2025.

4. On 19<sup>th</sup> August 2025, the Applicants' solicitor emailed the Housing and Property Chamber detailing reasonableness.

#### The Case Management Discussion

5. A CMD was held on 4<sup>th</sup> September 2025 at 10am by teleconferencing. The First Named Applicant was present and was represented by Mr David Gray, Accredited Paralegal, Gilson Gray. The Respondent was present and represented himself.
6. Mr Gray said that the current outstanding arrears were £19079.25 as of 1<sup>st</sup> August 2025. There has not been sufficient time to confirm if the September payment has been made or not. The Applicants are still seeking an order for eviction.
7. The Respondent said that he was not opposed to an order being granted. He admits that he has not paid the arrears. He considers that the Applicants actions have been reasonable. He said that his problem with payments started in February 2023 when his then 13 year old daughter was diagnosed with cancer. He was off work for 6 months as a result. He was working part time and received a Universal Credit payment. The Universal Credit payment stopped but he did not know why. After 8 months his daughter made a full recovery though she had been in and out of hospital during that time. However, he had built up substantial arrears by then. He is looking to address the arrears with future employment prospects though he did not currently have any further employment offers. The Respondent said that he has not spoken to his local authority homeless department. He does not know what he will do when he is evicted. He has not sought money advice to help him address the ongoing rent charge and the arrears. He explained that he had mental health issues which have prevented him from taking the necessary steps forward. His children live in the Property 3-4 nights per week. They are 15 years old and 17 years old.
8. The Tribunal was satisfied that it was reasonable to grant an order for eviction especially as it was not opposed. However, taking the Respondent's circumstances into account, particularly with regard to his mental health, the Tribunal made the decision to supersede the extract for one month to 4<sup>th</sup> November 2025. This was to allow the Respondent to liaise with his local authority homeless department and get advice regarding his finances. The Respondent should be aware that he will continue to be liable for the ongoing rent charge until such time as he leaves the Property.
9. The Applicant noted that he was aggrieved by the Tribunal's decision to supersede the extract by one month. There are substantial arrears. He noted that he has done everything as he should have done. He is aware of the housing crisis in Scotland, particularly in Edinburgh. He did not consider that landlords should be penalised for this given in cases like this that there are significant arrears. The Tribunal noted that it was a matter of judicial discretion to supersede the extract. The Tribunal had restricted this to one month. The purpose of this was to allow the Respondent to address his personal affairs as he had not done so already. Consideration was given to the fact that he has mental health problems and two children living in the Property half of the week.

The Applicant accepted this stating that he had wanted to state his frustrations with regard to the situation.

### Findings and reason for decision

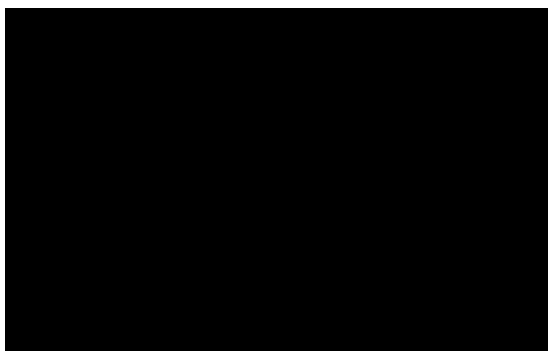
10. A Private Rented Tenancy Agreement commenced 11<sup>th</sup> March 2020.
11. The Respondent persistently failed to pay his rent charge of initially £975 per month and lately of £1004.25. The rent payments are due to be paid on the first day of each month.
12. Arrears accrued to more than three months arrears of rent payment at the date of application and was more than one month of arrears of rent payments at the date of the CMD.
13. The outstanding arrears are £19079.25 as at 1<sup>st</sup> August 2025. There have been no rent payments since February 2023.
14. The Respondent is not opposing an order being granted.
15. There are no issues of reasonableness that prevent an order from being granted.

### Decision

16. The Tribunal found that ground 12 has been established and granted an order in favour of the Applicant. The Order has been superseded until 4<sup>th</sup> November 2025.

### **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.**



**4<sup>th</sup> September 2025**

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Date

