



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

Chamber Ref: FTS/HPC/EV/25/0636

Property at 5 Youngs Terrace, Kirkcaldy, Fife, KY1 1BU (“the Property”)

Parties:

Zahid Mukhtar and Nabila Mukhtar as Trustees for the Firm of the Mukhtar Partnership, Victory House, 164 Overton Road, Kirkcaldy, KY1 2DY (“the Applicant”)

Ms Yvonne LEEANNE Somerville, Mr James Thomas Charles Bartie, 5 Youngs Terrace, Kirkcaldy, Fife, KY1 1BU (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Elizabeth Dickson (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 should be granted against the Respondents in favour of the Applicants.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and Grounds 1 and 12 of schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave, rent statement, evidence of intention to sell, section 11 notice and evidence of compliance with the rent arrears pre action protocol were lodged with the application.
2. A copy of the application was served on the Respondents by Sheriff Officer. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 21 August 2025 at 10am and that they were required to participate.

3. The CMD took place on 21 August 2025. The Applicants were represented by Ms McAndie. The Respondents did not participate. A related application for a payment order under Chamber reference CV/25/0640 was also discussed.

Summary of Discussion at CMD

4. Ms McAndie told the Tribunal that the Respondents are still believed to be in occupation of the property, but there has been no recent contact. The rent arrears have increased to £14,850 with no recent payments. She was unable to provide any information about the Respondents and advised that they do not engage with the Applicants. The reason for the rent arrears is not known. However, the Respondents previously told the Applicants that they are waiting for an eviction order in order to be re-housed by the Local Authority. They have been advised that they will not be offered accommodation until an order is granted. Ms McAndie said that the Applicants still intend to sell the property. It was purchased as an investment, and the Applicants are having to make mortgage payments without any rental income.

Findings in Fact

5. The Applicants are the owners and landlords of the property.
6. The Respondents are the tenants of the property in terms of a private residential tenancy agreement.
7. The Applicants intend to sell the property.
8. The Respondents are due to pay rent at the rate of £550 per month.
9. The Respondents have been in arrears of rent since May 2023, and no payments have been made since July 2023.
10. The Respondents currently owe £14,850 in unpaid rent.
11. The Applicants served a Notice to leave on the Respondent on 8 October 2024.
12. The Applicants have issued letters to the Respondents in compliance with the rent arrears pre action protocol.
13. The Respondents have failed to engage with the Applicant or offer any explanation for the arrears.
14. The Respondents previously told the Applicants that they have applied to the Local Authority and hope to be offered accommodation by them if an eviction order is granted.

Reasons for Decision

15. The application was submitted with a Notice to Leave dated 4 October 2025, together with Sheriff officer certificates of service which establish that the Notice was served on the Respondents on 8 October 2024. The Notice states that an application to the Tribunal is to be made on ground 12, rent arrears over three consecutive months and ground 1, the landlord intends to sell the let property.
16. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
17. Section 51(1) of the 2016 Act states, “The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”
18. Ground 1 of schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states, “(1) It is an eviction ground that the landlord intends to sell the let property. (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord – (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.”
19. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states “(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in 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.”
20. Sub-Paragraph (4) states, “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 Minister in regulations.” Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant’s rights in relation to eviction proceedings and how the tenant can access information and advice.

21. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicants intend to sell the property. The Tribunal is also satisfied that the Respondents currently owe £14, 850 and that they have been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Part 1 of Grounds 1 and 12 are therefore established.
22. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
- (a) The Tribunal is satisfied that the Applicants have complied with the Rent Arrears Pre-Action Protocol. The Applicants provided copies of letters issued to the Respondents in compliance with the protocol.
 - (b) The Tribunal is also satisfied that there is no evidence that the arrears are attributable to a delay or failure in the payment of a relevant benefit.
 - (c) The Respondents did not participate in the CMD or notify the Tribunal if the application is opposed.
 - (d) The arrears are substantial and are increasing. No payments have been made for over 2 years
 - (e) The Applicants have had to make mortgage payments in relation to the property notwithstanding the absence of rental income.
 - (f) The Respondents told the Applicants that they have applied to be re-housed by the Local Authority.
23. The Tribunal concludes that the Applicants have complied with the requirements of the 2016 Act that grounds 1 and 12 have been established. For the reasons outlined in paragraph 22, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

24. The Tribunal determines that an eviction order should be granted against the Respondent.

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.

Josephine Bonnar

Legal Member :

21 August 2025