



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/24/3332

Re: Property at 74 Cairntrodlie, Peterhead, AB42 2BN (“the Property”)

Parties:

Mr William Lawson and Mrs Fiona Lawson, both residing at 6 Mile End, Peterhead, AB42 2GG (“the Applicants”)

Mr Callum Tawse, residing at 74 Cairntrodlie, Peterhead, AB42 2BN (the First Named Respondent)

Mr Shaun Stephen, residing at 28 Longview Terrace, Aberdeen, AB16 7EZ (the Second Named Respondent)

Ms Chloe Barclay, residing at 24 Claymore Crescent, Boddam, Peterhead, AB42 3FA (the Third Named Respondent)

Tribunal Members:

Andrew Cowan (Legal Member) and David Fotheringham (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.

Background

1. This is an application for an eviction order in regard to a Private Residential Tenancy ("PRT") made in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (as amended) ("the Rules"). The PRT is between the Parties and relates to the Property. The tenancy commenced on 1st August 2022.

2. The application relies upon a Notice to Leave dated 3rd June 2024, issued in terms of section 52 of the Private Housing (Tenancies) (Scotland) Act 2016. The notice was served upon the Respondents by email on 3rd June 2024, all in accordance with the provisions of the PRT. The Notice relied upon Ground 12 of Schedule 3 of Part 1 of the 2016 Act, in that "the tenant has been in rent arrears for three or more consecutive months". The Notice to Leave intimated that an application to the Tribunal would not be made before 4th July 2024.
3. The Application papers included evidence that a section 11 notice, in terms of the Homelessness Etc. (Scotland) Act 2003, had been served upon Aberdeenshire Council by email on 18th July 2024.
4. The Applicant lodged, as part of the Application, a rent statement which showed that the Respondent had rent arrears due under the terms of the tenancy in the sum of £4175 as a 1st June 2024.
5. The Application papers also included a letter from the Applicants' letting agents addressed to the Respondents dated 27th May 2024 which complied with the requirements of the Rent Arrears Pre-Action Requirements Regulations.

Case Management Discussion

6. A Case Management Discussion ("CMD") took place by teleconference on 4th August 2025. The Applicant was represented at the CMD by Mrs Laura Wilson of Peterhead Property Letting Agency.
7. The Respondents did not join the CMD call. The Tribunal were satisfied that the Application, and details of the CMD, had been intimated upon each of the Respondents by Sheriff Officers on 16th June 2025. The Tribunal was satisfied that each of the Respondents had been given reasonable notice of the date, time and place of the CMD and that the requirements of rule 24(1) of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Procedure Rules") had been duly complied with. In the circumstances the Tribunal proceeded with the application in accordance with rule 29 of those Procedure Rules.
8. The First Named Respondent made written submissions to the Tribunal by email dated 4th August 2025, being the date of the CMD. In those submissions the Respondent advised that: -
 - a. He was not able to attend the CMD. The First Named Respondent indicated that he was unable to attend the CMD as he struggles with anxiety.

- b. He now lives alone in the Property and is unable to afford the rent on his own. He has sought payment of benefits to assist in paying the rent but has not received such support.
 - c. He accepts that he has caused some damage to the Property during his period of occupancy.
 - d. He accepts that the garden at the Property is overgrown, as he has no gardening tools.
 - e. He asserts that the roof of the shed at the Property was damaged in bad weather.
9. The Second Named Respondent advised the Tribunal by email dated 30th July 2025 that he would not be joining the CMD.
10. The Third Named Respondent sent an email to the Tribunal dated 25th July 2025. She explained that she moved out of the Property 3 years ago. She feels harassed by the terms of the application. She does not wish any further contact to be made with her in connection with this application.

Findings in Fact and Law

11. The Applicant let the Property to the Respondents under a Private Residential Tenancy with commencement on 1st August 2022 ("the Tenancy"). The rent charged under the tenancy agreement is £650 per month.
12. The Second and Third Named Respondents moved out of the Property on or around September 2023.
13. The First Named Respondent continues to reside in the Property.
14. The Applicant has issued a Notice to Leave dated 7th August 2024 in terms of section 52 of the Private Housing (Tenancies) (Scotland) Act 2016. The notice was served upon the Respondents by email dated 7th August 2024.
15. The Applicant has raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying on Ground 12 of Schedule 3 of Part 1 of the 2016 Act, in terms of an Application to the Tribunal dated 18th July 2024.
16. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon Aberdeenshire Council on the Applicant's behalf on 18th July 2024.
17. From November 2023 onwards the Respondents have failed to make full payments towards ongoing monthly rent or towards the rent arrears accrued.

18. As at the date of the CMD the amount of the rent arrears due by the Respondents under the terms of the tenancy is £13175.00
19. The Applicant's letting agents have made reasonable efforts to engage with the Respondent in relation to the Respondent's failure to pay the rent due. The Respondent has failed to respond to the Applicant's letting agents on these matters in any substantive manner.
20. The Applicant has complied with the requirements of the Rent Arrears Pre-Action Requirements Regulations.
21. For three or more consecutive months the Respondents have been in arrears of rent.
22. It is reasonable to issue an eviction order.

Reasons for Decision

23. The Tribunal were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondent.
24. The Tribunal were satisfied that it had had sufficient information upon which to make a decision at the CMD, having considered the written and oral representations made on behalf of the Applicant, together with the written representations made by the First and Third Respondent. The Rules allow, at rule 17(4), for a decision to be made at a CMD as at a hearing before a full panel of the Tribunal.
25. Ground 12 of Schedule 3 to the 2016 Act (as amended and applying to this application) states that:
- (1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months....
and that...
 - (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.

26. The First Respondent had indicated that he was unable to attend the CMD as he suffered from anxiety. No medical evidence was provided by the First Named Respondent to support his contention in that respect. The First Named Respondent only notified the Tribunal that he would not attend the CMD on the morning of that hearing. The Tribunal were not satisfied that the First Named Respondent had shown good reason for his non attendance and decided to proceed with the CMD hearing in his absence.
27. The Tribunal were satisfied, on the uncontested evidence provided, that the Respondents have been in arrears of rent for three or more months. Mrs Wilson explained to the Tribunal that the Respondents had accrued arrears of £13175 as at the date of this hearing. They had been consistently in arrears of rent from November 2023. On that basis the Tribunal determined that paragraph 3(1)(a) of Ground 12 was satisfied.
28. The Tribunal then considered whether it was reasonable to issue an eviction order under paragraph 3(2) of Ground 12.
29. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties
30. In this case the tribunal finds that it is reasonable to grant the order.
31. At the CMD Mrs Wilson advised that the Second and Third Named Respondents had moved from the Property around September 2023. The First Named Respondent continued to live in the three-bedroom property. Rent arrears had started to accrue from November 2023. For at least 14 months no rent had been paid. Mrs Wilson confirmed that she had been in contact with the Local Authority who had confirmed that the Third Named Respondent was paid £325 per month as housing benefit. The Third Named Respondent had not made these payments of housing benefit to the Applicants. Mrs Wilson further confirmed that she understood from the local authority that, if an order for eviction was granted, the Third Named Respondent would be entitled to present as homeless and to be rehoused by the local authority. If he is rehoused by the local authority, it is likely that he will be offered a property which is more affordable for his limited income.
32. Mrs Wilson noted that, in his written submission, the Third Named Respondent had offered to enter a payment arrangement in respect of the arrears of rent. Mrs Wilson stated that she did not consider the Third Named Respondent would be able to make any substantial payments towards the rent arrears accrued or the ongoing rental liability. The Respondent has not engaged with the Applicants or their letting agents in relation to these rent arrears and has not previously made any proposal to pay current rent or the arrears of rent which have accrued. The Applicant wishes to recover possession of the property because of the level of rent arrears which have been accrued by the Respondent. The Applicants cannot afford to allow the Respondent to continue to live in the property whilst no rent has been paid.

33. The Tribunal consider that it is reasonable to grant the eviction order. In reaching a decision on whether it was reasonable to grant the order sought the Tribunal took account of the large level of rent arrears which have accrued. The Tribunal do not consider that there is any realistic likelihood of payment of those arrears of rent, or of future rent liability. Only the First Named Respondent continues to live in the Property. He has not passed on to the Applicants benefits received by him to pay part of the rent due. It is not reasonable to require the Applicant to maintain the tenancy whilst no rent is paid by the Respondent.

34. The balance of reasonableness is weighted towards the Applicant.

35. The Tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

Decision

36. In all the circumstances, the Tribunal grant an order against the Respondent for eviction from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.

37. The decision of the Tribunal is unanimous.

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 Cowan

Legal Member/Chair

4th August 2025

Date