

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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 Act”)**

**Chamber Ref: FTS/HPC/EV/24/3584**

**Re: Property at 23 Jones Green, Livingston, EH54 8QB (“the Property”)**

**Parties:**

**Mr Craig Davidson, 16 Northcut Rise, Parmenlia, Perth, Western Australia 6167, Australia (“the Applicant”)**

**Mr Derek Hare, 23 Jones Green, Livingston, EH54 8QB (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Helen Barclay (Ordinary Member)**

**[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.**

**Background**

[2] The Applicant seeks an Eviction Order under ground 12 of Schedule 3 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement, the notice to leave with proof of service, the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 and a rent statement. There is also evidence of compliance with *The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020*.

**Previous Procedure**

[3] The Application had called for a Case Management Discussion (“CMD”) previously and been continued to an evidential Hearing. At the CMD, the Respondent had been

represented by a lay representative and the notes produced record the Respondent as being somewhat ambiguous and vague about whether he accepted or denied that he was in rent arrears. The Respondent had then failed to appear at the Hearing and an Eviction Order was granted in his absence. The Respondent then applied for recall which was granted but with a Direction ordering the Respondent to submit written representations setting out the precise basis in fact and law upon which the Application was defended. These representations were also to explain why no rent has been paid since October 2023 and explain why the Application should not be granted.

[4] The Respondent subsequently sent an email to the Tribunal but it did little to explain to the Tribunal what the Respondent's true position was. He did not address the fact that it was said that no rent had been paid since October 2023. It made observations about difficulties getting bank statements but seemed to be referring to payments made substantially prior to 2023.

[5] When the Application then called again for a Hearing at 10 am on 11 September 2025, the Applicant was present with his solicitor, Mr Thomas Duncan. There was however no appearance once again from the Respondent. Service had been competently effected on the Respondent so the Tribunal decided to continue in his absence.

[6] Having heard from parties and having considered the whole facts and circumstances of the case, the Tribunal made the following findings in fact.

### **Findings in Fact**

- 1) *The Applicant let the Property to the Respondent by virtue of a Private Residential Tenancy within the meaning of the Act;*
- 2) *The Respondent has stopped paying rent and has not paid any rent since October 2023. His current rent arrears are £23,960.00.*
- 3) *The Applicant competently served a notice to leave under ground 12 of Schedule 3 of the Act. Ground 12 was established at the date of service of the notice to leave and remains established as at today's date;*
- 4) *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003 and The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*

## **Reasons for Decision**

[7] Having made the above findings in fact, the Tribunal considered that the ground set out in the notice to leave was established. The Tribunal also considered that it was reasonable to make an Eviction Order. The Tribunal therefore granted the Application and made an Eviction Order.

[8] Mr Duncan invited the Tribunal to exercise the discretion open to it under Section 216 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 and dispense with the period of the Charge for Removal. Mr Duncan referred to the procedural history of the Application in support of his motion.

[9] The Tribunal did not decide to vary or dispense with the period of charge. The Tribunal considered that period to be a vital safeguard to avoid vulnerable individuals being ejected onto the street without adequate warning. The Tribunal did not consider that there was any ongoing risk to the safety of others or to the safety of property by allowing any Eviction to proceed along its usual timeline.

## **Right of Appeal**

[10] 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 McLaughlin**

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**Legal Member/Chair**

**11 September 2025**

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**Date**