



**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/25/0235**

**Re: Property at River View, Inchbae, Garve, Ross-shire, IV23 2PG (“the  
Property”)**

**Parties:**

**Mrs Rita Bishop, Oak Tree Cottage, Long Lane, Mumby, Alford, Lincolnshire,  
LN13 9JP (“the Applicant”)**

**Mr Douglas Stewart, River View, Inchbae, Garve, Ross-shire, IV23 2PG (“the  
Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) have been met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

**Background**

- 1 This is an application for an eviction order under section 51 of the 2016 Act and rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017. The Applicant relied upon ground 12 of schedule 3 of the 2016 Act as the ground for possession, citing unpaid rent.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 12 August 2025. The Tribunal gave notice to the parties under Rule 17(2) of the Rules. Both parties were invited to make written representations in advance of the CMD. The Tribunal received written representations from both the Applicant and the Respondent.

## **The CMD**

- 3 The CMD took place on 12 August 2025. Mrs Louise Cameron of Friends Legal represented the Applicant. The Respondent also joined the call.
- 4 The Tribunal had the following documents before it:-
  - (i) Form E application form;
  - (ii) Title sheet confirming the Applicant's ownership of the property;
  - (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
  - (iv) Private residential tenancy agreement between the parties;
  - (v) Notice to leave and proof of delivery upon the Respondent;
  - (vi) Section 11 notice and proof of delivery upon the local authority;
  - (vii) Rent statement;
  - (viii) Copy correspondence from the Applicant to the Respondent in accordance with the rent arrears pre-action protocol; and
  - (ix) The written representations from the parties.
- 5 The Tribunal proceeded to seek further submissions from the parties on the application. The following is a summary of the key elements of the submissions and is not a verbatim account.
- 6 Mrs Cameron gave an update on the rent arrears. She confirmed that these now stood at £14,310. No rent had been paid since 2 January 2024. The Applicant sought an eviction order.
- 7 The Respondent confirmed that he had not resided at the property since December 2024, when the Applicant had unlawfully evicted him from the property. The Applicant had changed the locks. The Respondent had a pending application before the Tribunal on the matter of the unlawful eviction. The Respondent confirmed that he is now residing elsewhere. He had been subject to harassment and false accusations by the Applicant. There were criminal proceedings ongoing. He did not think the Applicant should be entitled to recover rent from December onwards. He also believed the Applicant had failed to comply with her repairing obligations. Nonetheless, the Respondent agreed that it would make no difference to him if an eviction order was granted, albeit he was not happy with how the Applicant had gone about things.

## **Findings in fact**

- 8 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in respect of a private residential tenancy agreement.
- 9 The rent due under the terms of the said tenancy agreement is £995 per month.
- 10 The rent account has been in arrears for three or more consecutive months. No rent has been paid since January 2024.

- 11 The rent arrears are not known to be due to any failure or delay in the payment of a relevant benefit.
- 12 The Applicant has sent correspondence to the Respondent in accordance with the rent arrears pre-action protocol.
- 13 The Respondent left the property in December 2024. The Respondent is now residing elsewhere.

### **Reasons for decision**

- 14 The Tribunal was satisfied that it could make relevant findings in fact to reach a decision on the application following the CMD and in the absence of a hearing in terms of rules 17(4) and 18(1) of the Rules.
- 15 Based on the application paperwork the Tribunal was satisfied that the tenancy between the parties was a private residential tenancy, and that the Respondent had been given a notice to leave that complied with the provisions of the 2016 Act. The Tribunal was also satisfied that the Applicant had given the local authority notice under section 11 of the Homelessness etc (Scotland) Act 2003 at the time of making this application. The Tribunal therefore considered the ground for possession relied upon in this case.
- 16 Ground 12 of schedule 3 of the 2016 Act is in the following terms:-

#### ***“Ground 12***

*(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.*

*(4) 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 Ministers in regulations.*

*(5) For the purposes of this paragraph—*

*(a) references to a relevant benefit are to—*

*(i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),*

*(ii) a payment on account awarded under regulation 91 of those Regulations,*

*(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,*

*(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980, (b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.*

*(6) Regulations under sub-paragraph (4)(b) may make provision about—*

*(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),*

*(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,*

*(c) such other matters as the Scottish Ministers consider appropriate.”*

- 17 The Tribunal accepted that the rent account had been in arrears for three or more consecutive months, based on the rent statement before it and the submissions from the parties. The Tribunal therefore considered whether it would be reasonable for an eviction order to be granted on account of those facts.
- 18 The Tribunal gave most weight to the fact that the Respondent is no longer residing at the property, having left in December 2024. The Respondent alleges that he was unlawfully evicted by the Applicant and is currently pursuing this by way of a separate application to the Tribunal. The Respondent was clear therefore in his submissions at the CMD that the making of an eviction order would not make any practical difference to him, as he was now residing in accommodation elsewhere. The Tribunal considered therefore that an eviction order would be in the best interests of both parties in this case as it would legally bring an end to the tenancy in place between them. The Respondent can continue to pursue his application for unlawful eviction, which is the appropriate route for the remedy he is seeking.
- 19 Accordingly, having considered the above factors as relevant to the issue of reasonableness, the Tribunal determined that the balance weighed in favour of making an eviction order in this case.
- 20 The decision of the Tribunal was 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.**

Ruth O'Hare

12 August 2025

---

Legal Member/Chair

---

Date