

Housing and Property Chamber
First-tier Tribunal for Scotland



**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**

Chamber Ref: FTS/HPC/EV/24/4402

Re: Property at 8/1 Murieston Road, Edinburgh, EH11 2JH (“the Property”)

Parties:

Christine McCall, 104 Broompark Crescent, Edinburgh, EH12 7PJ (“the Applicant”)

Colin Mackenzie, 8/1 Murieston Road, Edinburgh, EH11 2JH (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.

Background

1. By application dated 19 September 2024 the Applicant’s representatives, Bannatyne Kirkwood France & Co, Solicitors, Glasgow, applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of a tenancy agreement, a rent statement, Rent Increase Notice, Notice to Leave, Pre-action requirement correspondence and a Section 11 Notice together with other documents in support of the application.
2. By Notice of Acceptance dated 22 October 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 25 February 2025.
4. By letter dated 7 March 2025 the Respondent submitted written representations to the Tribunal.
5. By email dated 26 March 2025 the Applicant's representatives submitted further written representations to the Tribunal.
6. A CMD was held by teleconference on 9 April 2025. The Applicant did not attend but was represented by Mr Jackson Ceane from the Applicant's representatives Bannatyne Kirkwood France & Co, Solicitors, Glasgow. The Respondent attended in person. The Respondent did not confirm the sum sought was correct but offered to pay the monthly rent together with an additional £300.00 per month towards any arrears. In light of the Respondent's offer and as the Tribunal wished further information as regards the impact the Respondent's failure to pay rent had on the Applicant the Tribunal adjourned the CMD to a further CMD to monitor the payments made by the Respondent and to give him an opportunity to reduce the rent arrears and confirm the amount of rent due.
7. By email dated 2 September 2025 the Applicant's representative submitted further written representations.

The Case Management Discussion

8. A CMD was held by teleconference on 9 September 2025. The Applicant attended in person, supported by her husband and was represented by Ms Alexandra Wooley from the Applicant's representatives. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation had been given to the Respondent determined to proceed in his absence.
9. Ms Wooley advised the Tribunal that the rent arrears had increased to £7900.27. and that the Respondent had made no payment of rent since April 2025. Ms Wooley confirmed that as far as the Applicant was aware the Respondent continued to occupy the property and that he had provided no explanation for his failure to pay rent or to adhere to the offer made at the previous CMD. Ms Wooley went on to say that the failure to pay rent had caused the Applicant considerable financial hardship as she had a mortgage on the property and also on her home. Ms Wooley said the Applicant had to borrow funds from her husband and borrow on her credit card to fund the deficit in her finances as well as working overtime. Ms Wooley also said the Respondent's failure to pay rent had caused the Applicant a great deal of stress.

In response to a query from the Tribunal Ms Wooley said that the Respondent had not communicated with her or the Applicant since the previous CMD.

10. The Tribunal noted that the Respondent had accepted at the previous CMD that the Notice to Leave and other documents had been properly served and Ms Wooley submitted that in all the circumstances it was reasonable to grant an order for the eviction of the Respondent from the property.

Findings in Fact

11. The Respondent commenced a Private Residential tenancy of the property on 29 December 2020 at a rent of £695.00 per calendar month.
12. The rent was increased to £715.00 per month with effect from 28 September 2023.
13. The Respondent was served with A Notice to Leave under Ground 12 of Schedule 3 of the 2016 Act by email on 29 July 2024.
14. At the time of service of the Notice to Leave the Respondent owed rent of £3987.50.
15. The Respondent was sent a pre-action requirement email on 29 July 2024.
16. At the date of the CMD on 9 April 2025 the Respondent owed rent of £4625.27.
17. At the date of the CMD on 9 September 2025 the Respondent owed rent of £7900.27.
18. The Applicant has a mortgage over the property and over her home.
19. The Respondent's failure to pay rent has had a significant adverse effect on the Applicant's finances.
20. The Applicant has had to borrow money on a credit card and from her husband to meet her outgoings.
21. The Applicant has experienced stress as a result of the Respondent failing to pay rent.

Reasons for Decision

22. The original CMD was continued in light of the Respondent's explanation for non-payment and his assurances to the Tribunal that as he was now back in full time employment he would be in a position to not only pay the monthly rent but also make payment of a further £300.00 per month to reduce the arrears. However, after making a single payment of £1015.00 in April 2025 the Respondent has not made any further payments and the rent now due has increased to £7900.27. Despite being given a further opportunity to submit written representations and to attend the CMD the Respondent has done neither. Furthermore, the Respondent has failed to communicate with either the

Applicant or her representatives. The Respondent's failure to pay rent has caused substantial stress and financial hardship to the Applicant who has had to borrow funds from family and on a credit card to meet her outgoings as well as working overtime. The Tribunal was satisfied that procedurally the Notice to Leave had been properly served on the Respondent as had the pre-action requirement correspondence and the Section 11 Notice. Given the circumstances of the parties, insofar as they were known to the Tribunal, the Tribunal was in no doubt that it was reasonable to grant an order for eviction given the failure of the Respondent to reduce the rent arrears and indeed the arrears substantially increasing since the previous CMD.

Decision

23. After carefully considering the facts and being satisfied it had sufficient information before it to make a decision without the need for a hearing the Tribunal finds the Applicant entitled to an order for the eviction of the Respondent from the property.

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.

G.Harding

9 September 2025
Date