

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/25/1449

Re: Property at Top Floor Left, 27 Wallfield Crescent, Aberdeen, AB25 2LD (“the Property”)

Parties:

Marnox Properties Ltd, 144 Crown Street, Aberdeen, AB11 6HS (“the Applicant”)

Mr Tony Jolly, Top Floor Left, 27 Wallfield Crescent, Aberdeen, AB25 2LD (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 4th April 2025. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 20th August 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 1st October 2025 at 10am by teleconferencing. The letter also requested all written representations be submitted by 10th September 2025.
3. On 13th September 2025, the Applicant emailed the Housing and Property Chamber with an up to date rent account for the period May 2024 to September

2025 detailing the arrears as £4245. This was notified to the Respondent by the Housing and Property Chamber.

4. On 21st August 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by. This was evidenced by Certificate of Intimation dated 21st August 2025.
5. The case was conjoined with case FTS/HPC/CV/25/0163

The Case Management Discussion

6. A CMD was held on 1st October 2025 at 10am by teleconferencing. The Applicant was represented by Mr John Logan, Director, Marnox Properties Ltd. Ms Beth Petrie and Mr Kevin Smith, both from Marnox Properties Ltd, were both present but did not take part in the hearing. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
7. Mr Logan said that the last contact with the Respondent was in April 2025 when Mr Smith attended the property to look at issues around draughtproofing the Property. At that time the outstanding arrears were discussed with the Respondent. It was noted that at that point that the Respondent had items associated with keeping a cat in the Property, which is not permitted in the lease. However, the Property was found to be in good condition with no evidence of damage from the cat. In July 2025 it was reported by the gardener that there was dog faeces in the garden. Other residents had also reported that the Respondent had a dog. At around the same time there was required maintenance on the drain which was found to have cat litter in it causing the blockage.
8. In terms of the arrears, Mr Logan said that the Respondent has been constantly in arrears since July 2025. A payment was due today but there has been no payment received. Mr Logan said that he does not know if the Respondent is working or not. He believed the Respondent to be working when the tenancy started. However, the Applicant contacted the Respondent's employer who said that it has been some time since the Respondent had worked there. When Mr Smith met the Respondent in April 2025, the Respondent said that he has restricted hours at this work due to a curfew being in place which meant that he was required to be at home in the morning and night. The Respondent said that he could not afford to pay his rent charge as a result.
9. Mr Logan said that an attempt had been made for direct payments of Universal Credit. This was done speculatively. It was refused by the DWP. A general refusal letter was issued to the Applicant. Mr Logan said that he did not know if the Respondent was claiming benefits or not.
10. Mr Logan said that there had been contact from the local authority but that they would not be in a position to rehouse the Respondent until an order was granted by the Tribunal.

11. Mr Logan said the Respondent lives in the Property on his own. The Applicant owns 4 out of 6 of the flats in that block. In total they own 61 properties.
12. The Tribunal considered that the Respondent had elected not to attend the hearing. There were no issues of reasonableness to prevent an order for eviction being granted.

Findings and reason for decision

13. A Private Rented Tenancy Agreement commenced 5th May 2024.
14. The Respondent persistently failed to pay his rent charge of £420 per month. The rent payments are due to be paid on first day of each month.
15. The Respondents had been in rent arrears for three or more consecutive months when the notice was served and more than one month of arrears at the CMD.
16. There are no known outstanding Housing Benefit issues.
17. The arrears sought totalled £4245 in the conjoined application.
18. There are no issues of reasonableness that prevent an order from being granted.

Decision

19. The Tribunal found that ground 12 has been established and granted an order in favour of the Applicant.

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. Miller

1st October 2025

Legal Member/Chair

Date