

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 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/1194

Re: Property at 19 Laburnum Avenue, Beith, North Ayrshire, KA15 1BQ ("the Property")

Parties:

Mrs Nina Smith-Stanger and Mr Martyn Smith-Stanger, both residing at 16A Muroor Complex, Dhafeer Street, Al Muntazah, Abu Dhabi, United Arab Emirates ("the Applicants")

Mrs Maria Thomson and Mr Thomas Thomson, 19 Laburnum Avenue, Beith, North Ayrshire, KA15 1BQ ("the Respondents")

Tribunal Members:

Andrew Cowan (Legal Member) and Helen Barclay (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 14th June 2019.
2. The application relies upon a Notice to Leave dated 30th October 2024, issued in terms of section 52 of the Private Housing (Tenancies) (Scotland) Act 2016. The notice was served upon the Respondents by Sheriff Officers on 1st November 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 5th December 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 North Ayrshire Council by email on 30th July 2025.
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 £8034 as at 14th August 2025.
5. The Application papers also included a copy of several letters from the Applicants' letting agents addressed to the Respondents 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 15th September 2025. The Applicants were represented at the CMD by Mr Craig Donnelly, solicitor of Messrs Holmes Mackillop Solicitors.
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 5th August 2025. The Tribunal was satisfied that 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 Respondents have not lodged any response or written submission to the Tribunal in relation to the application.

Findings in Fact and Law

9. The Applicant let the Property to the Respondents under a Private Residential Tenancy with commencement on 14TH June 2019 ("the Tenancy"). The rent charged under the tenancy agreement was £600 per month at the commencement of the Tenancy. The rent due under the Tenancy is currently £618 per month.
10. The Applicants believe that the Respondents have abandoned the Property and no longer reside there.

11. The Applicants issued a Notice to Leave dated 30th October 2024 in terms of section 52 of the Private Housing (Tenancies) (Scotland) Act 2016. The notice was served upon the Respondents by Sheriff Officers on 1st November 2024.
12. The Applicants 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 17th March 2025.
13. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon North Ayrshire Council on the Applicants' behalf on 30th July 2025.
14. From 14th July 2024 onwards the Respondents have failed to make any payments towards ongoing monthly rent or towards the rent arrears accrued.
15. As at the date of the CMD the amount of the rent arrears due by the Respondents under the terms of the tenancy is £8034.
16. The Applicants' letting agents have made reasonable efforts to engage with the Respondents in relation to the Respondents' failure to pay the rent due. The Respondents have failed to respond to the Applicants' letting agents on these matters in any substantive manner.
17. The Applicants have complied with the requirements of the Rent Arrears Pre-Action Requirements Regulations.
18. For three or more consecutive months the Respondents have been in arrears of rent.
19. It is reasonable to issue an eviction order.

Reasons for Decision

20. 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 Respondents.
21. 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 Applicants. 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.

22. 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.

23. The Tribunal were satisfied, on the uncontested evidence provided on behalf of the Applicants, that the Respondents have been in arrears of rent for three or more months. Mr Donnelly explained to the Tribunal that the Respondents had accrued arrears of £8034 as at the date of this hearing. They had been consistently in arrears of rent from July 2023. On that basis the Tribunal determined that paragraph 3(1)(a) of Ground 12 was satisfied.

24. The Tribunal then considered whether it was reasonable to issue an eviction order under paragraph 3(2) of Ground 12.

25. 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

26. In this case the tribunal finds that it is reasonable to grant the order.

27. At the CMD Mr Donnelly advised that it was believed that the Respondents had abandoned the Property. The Property had recently been visited by an officer of the local authority who had confirmed, by email to the Applicant's representatives, that he had visited the Property and that it appeared to be uninhabited. That Housing Officer had also spoken to the First Named Respondent by telephone who had confirmed to the Housing Officer that the Respondents no longer lived at the Property.

28. Mr Donnelly highlighted that the Respondents have not engaged with the Applicants or their letting agents in relation to the rent arrears which have accrued and have not made any proposal to pay current rent or the arrears of rent which have accrued. The Applicants wish to recover possession of the property because of the level of rent arrears which have been accrued by the Respondents.

29. 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. It is not reasonable to require the Applicants to maintain the tenancy whilst no rent is paid by the Respondents.

30. The balance of reasonableness is weighted towards the Applicants.

31. 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

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

33. 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.

A. Cowan

Legal Member/Chair

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Date: 15/09/2025