



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/24/2932

Re: Property at 23 Auld Coal Terrace, Bonnyrigg, Edinburgh, EH19 3JP (“the Property”)

Parties:

The Jamie Cameron English Personal Injury Trust, 13 Saw Mill Gardens, Bonnyrigg, EH19 3FT (“the Applicant”)

Miss Clare Wilkie, 23 Auld Coal Terrace, Bonnyrigg, Edinburgh, EH19 3JP (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

[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 1 of Schedule 3 of the Act. The Application is accompanied by a copy of the tenancy agreement and the notice to leave with proof of service. The relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 is also produced. The Applicant has produced evidence setting out the nature of the Applicant’s trust business. A previous Eviction Order was granted but then recalled by the Tribunal on an Application by the Respondent. The Tribunal had thereafter continued the Application to a Hearing. The Applicant had submitted further written representations stating that the Respondent was now in rent arrears in the sum of £10,080.00. The Applicant also submitted some information that set out some alleged

concerns from neighbours and the local authority about anti-social behaviour at the Property. The Respondent had subsequently submitted an assortment of emails objecting to various comments made in these documents. The tone of these emails was less than formal.

The Hearing

[3] The Application called for a Hearing by conference call at 10am on 22 September 2025. The Applicant was represented by its letting agent, Mr Raphael Bar of DJ Alexander. The Respondent was personally present.

Preliminary matters

[4] The Tribunal began by ensuring that all parties understood the purpose of the Hearing and how it would be conducted. Part of this involved explaining to parties that it was not appropriate for anyone to raise their voice or to interrupt. It became apparent very early on that the Respondent was going to struggle to follow these rules. She kept interrupting and expressing exasperation whenever something was said that she didn't agree with. The Tribunal tried to keep good order as best it could but even with firm guidance given about how to conduct herself, the Respondent clearly had challenges in moderating her behaviour. The first thing the Respondent said in the Hearing when she was asked to confirm her position was that she wanted "*an Upper Tribunal decision*". Frequent intervention was required by the Tribunal to allow matters to progress.

[5] The Respondent was not prepared to agree to leave the Property and so the Tribunal proceeded on the basis that the Application was opposed. The Tribunal ensured that everyone was familiar with the documentation before it and that there were no outstanding preliminary matters. The Respondent took issue with the Applicant leading evidence from a Ms Kirsty English who is the sister of the sole beneficiary of the Applicant, Mr Jamie English. While this objection seemed wholly without merit, in any event it did not need to be resolved as Mr Bar explained that he no longer wished to call her as a witness. The Tribunal therefore proceeded to hear evidence from Mr Bar and the Respondent. After each party gave evidence, the other had the right to cross-examine. At the conclusion of evidence each party also had the opportunity to make closing submissions.

Evidence

[6] The Tribunal comments on the evidence heard as follows.

Raphael Bar

[7] Mr Bar is head of customer relations at DJ Alexander. They manage the Property on behalf of the Applicant. Mr Bar explained the nature of the Applicant's trust business. It is a trust which manages the proceeds of a criminal injuries compensation payment received on behalf of Mr Jamie English for childhood abuse and neglect. The trust invested in the Property which is the trust's only asset. The trust has no money in it as the Respondent stopped paying rent entirely in September 2024 which was the trust's sole source of income. No reason was provided as to why the rental payments stopped. It coincided with the contractual monthly rent increasing from £750.00 per month to £840.00 per month. Mr Bar suspected the Respondent was still receiving benefit payments for the rent that she was simply not paying over to the Applicant.

[8] Mr Bar explained that Mr Jamie English has something of a troubled life. The hope had been that he might one day move into the Property but due to lifestyle issues that now seemed less than likely. The trust had now decided that the Property was to be sold and the funds used to provide personal care to Mr English instead. Now that no rent was being received, it was even more important that the Property was sold as it was causing the trust serious financial harm.

[9] Mr Barr spoke knowledgeably about the issues and his evidence was entirely credible and reliable.

The Respondent

[10] Ms Clare Wilkie lives alone in the Property with her cat. She described a long history of engagement with psychiatric services. She has a diagnosis of bi-polar disorder and ADHD. Much of what Ms Wilkie said was irrelevant. She expressed deep rooted cynicism of the Applicant's trust purposes and attempted to speak repeatedly at length about Mr Jamie English's personal family life. Much of what she said appeared rather unorthodox. She also claimed her tenancy was not valid and she made certain remarks about that which were not easy to follow. The Tribunal noted that the Respondent accepted that in September 2024, she stopped paying rent and instead has spent the state benefits she receives for her rent on other things for herself.

[11] The Respondent also explained that she had consulted with the housing department of her local authority regarding what she should do if an Eviction Order was granted. The Respondent appeared well versed in the local authority procedures for assisting parties in the event that an Eviction Order was granted. She knew how many points she had been allocated and described to the Tribunal how she had tried to "*get a council house*" which had become available in her area but had been unsuccessful.

[12] The Respondent was aggrieved at any allegations of anti-social behaviour and denied any such behaviours. She also spoke of a history of alcohol addiction and described herself as being in recovery.

[13] The Tribunal could not accept much of what the Respondent said as being credible or reliable. Her allegations that her tenancy was not valid and that the Applicant's trust business was in some way unlawful had no substance. The Respondent however was also someone who did understand the situation she was in. She appeared quite candid about her misuse of the housing benefit money. It was clear that the Respondent had been in touch with the local authority and was someone who was capable of accessing support if needed.

[14] The Respondent also had sent emails and posted messages accusing various parties of being paedophiles and making serious allegations of wrongdoing. The Respondent also appeared very relaxed about the financial consequences to the Applicant about her non-payment of rent. She explained that she thought that DJ Alexander had "*a rent guarantee scheme*" so it was all fine as "*Jamie would still be getting his money*". Mr Barr in closing submissions expressly pointed out that this was not the case.

[15] Parties made closing submissions. Mr Barr spoke to the statutory ground of eviction being established and that it was reasonable for an eviction order to be granted. The Respondent agreed when it was suggested to her that her position appeared to be that the ground was not established and that it was not reasonable to make an Eviction Order.

[16] Having heard evidence and having considered the documentation, 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 Agreement within the meaning of the Act which commenced on 1 March 2021.*
2. *The Applicant is a trust set up to manage a criminal injuries compensation payment made to Mr Jamie English. The trust bought the Property which is its sole asset and source of income. It was hoped that one day Mr Jamie English might be able to live in the Property. Mr Jamie English has a troubled life. It is now considered by the Applicant that the trust purposes would be better served by selling the Property and using the capital released to provide care to Mr English. The Applicant now wishes to sell the Property.*
3. *The Applicant competently served a notice to leave dated 14 March 2024 under ground 1 on the Respondent.*
4. *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003.*

5. *The Respondent has a significant psychiatric history and lives in the Property alone with her cat. She describes being happy and settled in the Property. The Respondent stopped paying rent in September 2024 and has been retaining and spending the housing payments she receives from her state benefits on other matters.*
6. *The Respondent's rent arrears are £10,080.00 which means that the Respondent has more likely than not misspent this same sum which continues to be paid to her in housing benefit.*

Reasons for Decision

[17] Having made the above findings in fact, the Tribunal considered that ground 1 of Schedule 3 of the Act was established. The Tribunal thereafter proceeded to consider the “reasonableness” of granting an order.

The Reasonableness

[18] The Tribunal considered the arguments in favour of granting the order. The Tribunal concluded that it was certainly reasonable for the Applicant to wish to conduct its business in the manner that it considered best met its trust objective. That all certainly seemed reasonable. The Tribunal also agreed that it was reasonable for the trust to want to sell the Property especially given that the Respondent had long since stopped paying rent.

[19] The Tribunal however was cautious as the Respondent had disclosed a long psychiatric history and her behaviour in the Hearing was consistent with this. It was clear that the Respondent was vulnerable although this is not something the Respondent herself said. The Tribunal was mindful that granting the order may have a profound impact on the Respondent's life. She had said she was happy and settled in the Property and the Tribunal was very respectful of that. She had also however said that she had tried herself to bid for another local authority property in her area.

[20] The Tribunal noted that this was not an Application brought under anti-social behaviour. The Tribunal therefore did not consider it appropriate to take account of the disputed allegations about that in its decision-making process.

[21] The Tribunal conducted an exercise of weighing these competing factors in the balance. But there was one factor which the Tribunal considered tipped the scales decisively in favour of granting the order. That is that the Respondent has long since stopped paying rent. Moreover, the Respondent said nothing which suggested that she had any intention of changing course in that regard. If anything, the Respondent

appeared very casual about her rent arrears. The non-payment of rent was clearly very damaging to the Applicant and its trust purpose.

[22] The Tribunal concluded that this resulted in the arguments for it being reasonable to make the order outweighing the reasons against. The Tribunal then considered whether the date by which any order could be enforced ought to be delayed. That might have been appropriate given the Respondent's clear vulnerabilities. However, again the Tribunal decided that this would simply cause unnecessary further financial harm to the Applicant. It would certainly result in more rent arrears and more state benefits to be misused by the Respondent. The Tribunal therefore considered that the Application should be granted and there should be no delay in having the order enforced.

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. McLaughlin

Legal Member/Chair

22 September 2025

Date