



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/0711

Re: Property at 366F 2/R Strathmore Avenue, Dundee, DD3 6RU (“the Property”)

Parties:

TWL Properties Ltd, 22 Angus Gardens, Monifeith, Angus, DD5 4UE (“the Applicant”)

Mr Gordon Campbell, 366F 2/R Strathmore Avenue, Dundee, DD3 6RU (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

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

1. An application was received on 19 February 2025 from the Applicant’s representative under Rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (‘the 2017 rules’) seeking recovery of the property under Ground 12 (rent arrears) as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form were:
 - (i) Copy Notice to Leave dated 11 October 2024 citing ground 12, and stating the date before which proceedings could not be raised to be 31 January 2025.
 - (ii) Rent statement showing the Respondent’s outstanding rent arrears to be £4445 as at 1 February 2025.

- (iii) Copy notice to Dundee City Council under section 11 of the Homelessness etc. (Scotland) Act 2003 with proof of sending by email dated 17 February 2025.
 - (iv) Copy pre-action requirements email dated 11 October 2024 sent by the Applicant's representative to the Respondent.
3. In response to a request from the Tribunal administration, further information, including a copy of the private residential tenancy agreement between the previous landlord and the Respondent, was received from the Applicant's representative on 27 March 2025.
 4. The application was accepted on 17 April 2025.
 5. Notice of the case management discussion (CMD) scheduled for 7 October 2025, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the Tribunal on 22 August 2025. The Respondent was invited to submit written representations by 10 September 2025.
 6. No written representations were received from the Respondent prior to the CMD.

The case management discussion

7. A CMD was held by teleconference call on 7 October 2025. The Applicant was represented by Mr Neil Dymock, Director of Dymock Properties Ltd.
8. The Respondent was not present or represented on the teleconference call. The Tribunal delayed the start of the CMD by 10 minutes, in case the Respondent had been detained. He did not join the teleconference call, however, and no telephone calls, messages or emails had been received from him.
9. The Tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a case management discussion had been duly complied with. It therefore proceeded with the CMD in the absence of the Respondent.

Preliminary issue

10. The Legal Member noted that the Notice to Leave dated 11 October 2024 stated that an application to the Tribunal for an eviction order would not be made before 31 January 2025. The correct date, in terms of sections 54 and

62 of the 2016 Act would have been 11 November 2024. The Notice to Leave therefore provided a much longer period than that stipulated. As such, the Notice to Leave did not comply with subsection 62(1)(b) of the 2016 Act.

11. Mr Dymock said that the parties had agreed that a longer time than the required 28 days would be stated in the Notice to Leave, to give the Respondent more time to pay off the rent arrears. The Tribunal considered that, as the Notice gave the Respondent much longer than the time which was required, there was no prejudice to the Respondent. The Respondent had not challenged the validity of the Notice to Leave. The Tribunal was satisfied that, in the circumstances, the incorrect date constituted a minor error in the Notice to Leave, which did not materially affect the effect of the Notice, in terms of section 73 of the 2016 Act.

The Applicant's submissions

12. Mr Dymock asked the Tribunal to grant an eviction order in favour of the Applicant against the Respondent. He said that the Respondent had made no rent payments since July 2024, and that his current arrears totalled £7445. The Respondent had been in rent arrears since before the Applicant took ownership of the property in December 2022.
13. Prior to sending the pre-action requirements letter and the Notice to Leave to the Respondent, the Applicant had had discussions with the Respondent regarding the arrears. He had said that he expected to be in a position to pay the arrears soon. This was why the parties had agreed that a longer time than the required 28 days would be stated in the Notice to Leave, to give him more time to do so. There had been no contact from the Respondent since that time, other than to agree access to the property for gas safety checks to be carried out.
14. Mr Dymock said that Mr Joe Leather, the Director of the Applicant company, works offshore and has four children. The Applicant owns around 10 rental properties, some of which are managed by Mr Dymock. There is a mortgage over the property, which the Applicant was currently paying in the absence of any rental payments from the Respondent. The Applicant could not afford to sustain the tenancy in these circumstances.
15. Mr Dymock said that he knew little about the Respondent's circumstances, but believed that he lives alone in the property, which is a one bedroom tenement flat. The Respondent is in his mid-late 50s. He was previously in employment, but no longer is. He had no disabilities or other health issues to Mr Dymock's knowledge, and no adaptations have been made to the property for him.

16. Mr Dymock had asked the Respondent if he was entitled to housing benefit, and he had replied that he did not think he was. Mr Dymock said he believed that the Respondent had previously been paying the rent from his earnings, and was not in receipt of housing benefit. He said that did not believe that the Respondent's rent arrears were due to any delay or failure in the payment of a relevant benefit.

Findings in fact

17. The Tribunal made the following findings in fact:

- The Applicant has owned the property since 21 December 2022, and is the registered landlord.
- The Applicant bought the property from the previous owner, M.S. Matthew trading as Matthew Properties, with the Respondent in situ as a sitting tenant.
- There was a private residential tenancy in place between M.S. Matthew trading as Matthew Properties, which commenced on 20 June 2022. The landlord's interest in the tenancy was transferred to the Applicant on 21 December 2022.
- The rent payable under the tenancy is £375 per calendar month, payable in advance on the twentieth day of each month.
- The Notice to Leave was validly served on the Respondent by email on 11 October 2024.
- The Respondent has been in rent arrears continuously since at least 1 March 2024. He has paid no rent since July 2024.
- The Applicant has complied with the pre-action requirements.
- The Respondent's being in arrears of rent over the period in question is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit
- As at the date of the CMD, the Respondent owed £7445 in rent arrears.

Reasons for decision

18. The Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties.

19. The Tribunal was satisfied that the Applicant was now the landlord of the property following the transfer of the title to the property into its name. The

Tribunal noted that in terms of section 45 of the 2016 Act, when ownership of a property let under a private residential tenancy is transferred, the landlord's interest transfers with it.

20. The Tribunal considered whether Ground 12 (rent arrears) had been met. Ground 12 states:

Rent arrears

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.

20. The Tribunal noted from the rent statement provided that the Respondent had been continuously in rent arrears since at least 1 March 2024. The Respondent had not disputed this. He had therefore been in rent arrears for three or more consecutive months.
21. The Tribunal then considered whether it was reasonable to issue an eviction order in all the circumstances of the case. In doing so, it took into account all of the evidence before it.
22. The Tribunal was satisfied that the Applicant had complied with the pre-action requirements. The Tribunal was also satisfied on the basis of the evidence before it that the arrears were not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

31. The Tribunal noted that the Applicant was currently owed £7445 in rent arrears by the Respondent. Given the level of the monthly rent payable, this represented a significant level of arrears. The Respondent had paid no rent for more than a year as at the date of the CMD. It also noted that the Applicant was making mortgage payments in respect of the property each month, despite receiving no rent.
32. The Tribunal had little evidence before it regarding the Respondent's circumstances, as he had not submitted written representations during the Tribunal process. It appeared, however that he lives in the property alone, and has been resident there for more than three years.
32. The Tribunal gave particular weight to the substantial rent arrears owed by the Respondent to the Applicant. It also noted that the Respondent had not opposed the application.
33. The Tribunal decided that in light of all the above considerations, it was reasonable in all the circumstances to grant an order for eviction in favour of the Applicant against the Respondent.

Decision

The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of 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.

Sarah O'Neill

7 October 2025

Legal Member/Chair

Date