



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”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/EV/24/4562

Re: Property at St.Annes Court 43B, Jute Street, Aberdeen, AB24 3EX (“the Property”)

Parties:

Mr Michael Kilbride, 105 Ivanhoe Road, Aberdeen, AB10 7ET (“the Applicant”)

Miss Jessica Wright, 79 Jute Street, Aberdeen, Aberdeenshire, AB24 3HA (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. By application received on 2 October 2024, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Grounds 10 (tenant no longer occupying the property), 12 (rent arrears over 3 consecutive months) and 12A (substantial rent arrears) of Schedule 3 to the 2016 Act. Supporting documentation was submitted in respect of the application, including a copy of the Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003, a Rent Statement, evidence regarding the ‘pre-action protocol’ and further background information.

2. Following initial procedure, and subsequent amendment of the application by the Applicant to proceeding under Ground 12 only, on 15 April 2025, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. A Case Management Discussion (“CMD”) was fixed for 2 October 2025. The application and details of the CMD fixed were served on the Respondent by Sheriff Officer on 26 August 2025 at her new address, to which the Applicant had managed to trace her using Sheriff Officers. In terms of said notification, the Respondent was given an opportunity to lodge written representations. No representations were lodged prior to the CMD.

Case Management Discussion

4. The CMD took place by telephone conference call on 2 October 2025, due to commence at 2pm. It was attended only by the Applicant, Mr Michael Kilbride. The Respondent did not attend. The Tribunal delayed the commencement of the CMD to allow an opportunity for the Respondent to join late but she did not do so.
5. Following introductions and introductory remarks by the Legal Member, there was discussion regarding the eviction application. It was noted that, although the Respondent had moved out of the Property some time ago, she had not vacated properly, removed her belongings, notified the Applicant nor returned the keys to him. Mr Kilbride had considered that he had to complete the eviction process in these circumstances, in case the Respondent decided that she wished to return to the Property and because she had left so many personal belongings behind. Reference was made to the email from the Respondent that the Applicant had lodged with the Tribunal in which she had stated that she intended to make arrangements to get her belongings uplifted. It was noted that she had also stated that she accepted the rent arrears were owing and that she would hopefully be able to address these once she received disability benefits that she was awaiting. Mr Kilbride said that the Respondent’s health had seemed to have deteriorated and that she said she was in a wheelchair and that the Property was no longer suitable for her. He also confirmed that she did not make arrangements to uplift her belongings but that her advocate from the local authority eventually contacted him and made arrangements for the belongings to be removed towards the end of July 2025. Once this had been done, they went into the Property to check its condition and had to carry out some emergency works to rectify damage as there had been some kind of flooding. Mr Kilbride confirmed that the Property had been left in a disgusting condition with lots of rubbish left behind by the Respondent. Nothing further has yet been done with the Property as Mr Kilbride was waiting to see what would happen today. Once matters are finalised with the eviction, he hopes to refurbish the Property and maybe let it out again.
6. As regards the rent arrears, it was noted that the last rent payment had been made around August 2023 so there has been a period of more than two years

during which no rent has been paid. The amount owing as at November 2024, in terms of the last rent statement was £9,600 and Mr Kilbride confirmed that the arrears have continued to accrue since then at the rate of £600 per month. He advised that the Respondent did not follow up on her proposal to pay off some of the arrears and had told him that she could not get benefits to pay anything as she was no longer residing at the Property. He requested that an eviction order be granted so that there could be no uncertainty over his right to recovery the Property.

7. The Tribunal Members conferred and confirmed that the Tribunal was satisfied that the ground for eviction was met and also that it was reasonable to grant the order in all of the circumstances. There was some brief discussion regarding the issuing of the decision documentation to parties, the applicable appeal period and procedure thereafter. Mr Kilbride was thanked for his attendance at the CMD.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 22 December 2022.
3. The rent due in respect of the tenancy was £600 per calendar month.
4. Rent arrears started to accrue in July 2023 and no rental payments were made from September 2023 onwards.
5. Rent arrears amounted to £7,200 when notice was served in August 2024 and had increased to £9,600 by November 2024.
6. No further rent payments have been made and arrears have continued to accrue at the rate of £600 per calendar month.
7. The Applicant sought to engage with the Respondent concerning the rent arrears and issued email communications to her in terms of the 'pre-action protocol'.
8. The Respondent admitted the rent arrears to the Applicant but failed to enter into any payment arrangement in respect of the arrears or to otherwise attempt to resolve the situation.
9. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by email on 7 August 2024 which the Respondent acknowledged and responded to by email on 17 August 2024.

10. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 9 September 2024.
11. The Tribunal Application was submitted on 2 October 2024.
12. The Respondent moved out of the Property at some point during 2024, without notifying the Applicant, and is understood to have resided elsewhere since then.
13. The Respondent did not properly vacate the Property and left a significant quantity of her personal belongings there which she stated she intended to have uplifted.
14. The Respondent did not arrange to remove her personal belongings from the Property until in or around July 2025.
15. The Respondent did not return her keys to the Applicant.
16. The Respondent did not provide the Applicant with her forwarding address and the Applicant required to trace her through tracing agents in connection with these proceedings.
17. The Respondent has been called upon to make payment of the rental arrears or enter into a satisfactory payment arrangement but has failed to do so.
18. The Respondent was in arrears of rent for three or more consecutive months when Notice to Leave was served and this remains the position.
19. There is no indication that the arrears have arisen wholly or partly as a result of a failure or delay in the payment of relevant benefits.
20. The Respondent did not submit any representations nor attend the CMD.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation and to the oral representations made at the CMD by the Applicant.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the correct period of notice had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.
3. The Tribunal considered the ground of eviction relied upon in this application, namely Ground 12, was satisfied in that all requisite elements of that ground had been met. The Tribunal was satisfied that there had been continuous rent

arrears for well in excess of the period of three consecutive months required in terms of Ground 12 prior to the Notice to Leave being served. Arrears amounted to £7,200 when Notice to Leave was served and arrears have continued to accrue at the rate of £600 per month and are therefore significant.

4. As to reasonableness, all the factors narrated above, and particularly the fact that the Respondent had already vacated the Property and was residing elsewhere, satisfied the Tribunal that it was also reasonable to grant an order in these circumstances and to do so at this stage. The Respondent had not entered into the Tribunal process and the Tribunal therefore had no material before it either to contradict the Applicant's position nor to advance any reasonableness arguments on behalf of the Respondent. The Tribunal accordingly determined that an order for recovery of possession of the Property could properly be granted at the CMD as there was no need for an Evidential Hearing.

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.

N Weir

Legal Member/Chair

2 October 2025
Date