



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/25/2393

Re: Property at 18 Whitehope Green, Irvine, North Ayrshire, KA11 1LY (“the Property”)

Parties:

Easton Property Merkland Limited, 2 Newfield Drive, Dundonald, South Ayrshire, KA2 9EW (“the Applicant”)

Ms Stephanie Campbell, 18 Whitehope Green, Irvine, North Ayrshire, KA11 1LY (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member) and Elizabeth Williams (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 5 June 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 private residential tenancy agreement between the parties, which commenced on 1 November 2018.
 - (ii) Copy Notice to Leave dated 13 February 2025 citing ground 12, and stating the date before which proceedings could not be raised to be 16 March 2025

- together with covering email addressed to the Respondent dated 13 February 2025.
- (iii) Rent statement showing the Respondent's outstanding rent arrears to be £2365 as at 5 June 2025.
 - (iv) Copy notice to North Ayrshire Council under section 11 of the Homelessness etc. (Scotland) Act 2003 with proof of sending by email dated 5 June 2025.
 - (v) Copy (undated) pre-action requirements email sent by the Applicant's representative to the Respondent.
3. The application was accepted on 5 July 2025. A direction was issued to the Applicant on the same date, asking it to provide a further rent statement and copies of the rent increase notices sent to the Respondent by 15 August 2025.
4. Notice of the case management discussion (CMD) scheduled for 8 October 2025, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the Tribunal on 1 September 2025. The Respondent was invited to submit written representations by 17 September 2025.
5. No written representations were received from the Respondent prior to the CMD. An updated rent statement was received from the Applicant's representative on 7 October 2025.

The case management discussion

6. A CMD was held by teleconference call on 8 October 2025 to consider both the eviction application and the conjoined civil proceedings application (reference no: FTS/HPC/CV/25/2394). The Applicant was represented by Miss Aynsley Barclay, Property Manager, Easton Housing Limited.
7. 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. She did not join the teleconference call, however, and no telephone calls, messages or emails had been received from her.
8. 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

9. The Legal Member noted that the Applicant had not provided the rent increase notices required by the direction of 5 July 2025. There appeared to have been three rent increases during the Respondent's tenancy, in 2022, 2034 and 2025. Miss Barclay sent the three notices to the Tribunal by email during the CMD.
10. Miss Barclay also sent the Tribunal an email from the Respondent which had been received by the Applicant's representative on the previous day, 7 October 2025, giving notice that she intended to leave the property within 28 days. This email also stated that the Respondent was happy to set up a payment plan with the Applicant to pay back the rent arrears owed.

The Applicant's submissions

11. Miss Barclay asked the Tribunal to grant an eviction order in favour of the Applicant against the Respondent. The Respondent owed significant rent arrears, which now stood at £3295. Her failure to pay the rent was having a financial impact on the Applicant, as there was a mortgage over the property and maintenance and other costs to be paid from the rent. While she was unsure of the exact number of rental properties owned by the Applicant, she believed it was more than 10, and said that a number of these were mortgaged.
12. While the Respondent had given notice that she intended to leave the property, she had said on a previous occasion that she was going to leave but had not done so. The Applicant was concerned that this could happen again. It therefore sought an eviction order in case the Respondent decided not to move out of her own volition. The Respondent had also said in her email of 7 October 2025 that she was happy to set up a payment plan in respect of the arrears. She had also said previously that she would be willing to enter into a payment plan, but had not done so.
13. The Legal Member noted that the Respondent had been making sporadic rent payments, occasionally missing payments and then making larger payments every so often. She had not paid the rent in July or August 2025, for example, but had then made a payment of more than double the monthly rent in September 2025. Miss Barclay said that she had no explanation for this pattern of payments. She said that she did not believe that the Respondent was in receipt of housing benefit, although it was possible that this was being paid directly to her. She said that she was unaware of any issues with delay or failure in the payment of a relevant benefit.

14. Miss Barclay said that she did not know much about the Respondent's circumstances. She was unsure as to whether the Respondent is currently in employment. The Respondent did not have any health issues or disabilities to her knowledge. She believed that the Respondent has a young daughter, who is around 7 years old. She did not think that the child was currently living with her in the property, as there had been problems with the neighbours. The Applicant's representative had only recently been made aware of this issue, as it had not been reported to them by the Respondent. Miss Barclay said that she believed the Respondent had been in contact with the police regarding the neighbours. She had stated in her email of 7 October that she was moving out because of the issues with the neighbours.

Findings in fact

15. The Tribunal made the following findings in fact:

- The Applicant is the owner and registered landlord of the property.
- There is a private residential tenancy in place between the parties, which commenced on 1 November 2018.
- The rent payable at the start of the tenancy was £435 per calendar month, payable in advance on the first day of each month.
- The rent was increased by the Applicant to £450 (from 1 April 2022), and then to £485 (from 1 May 2023) and £520 (from 1 November 2024). Valid rent increase notices were served on the Respondent, who did not challenge any of the proposed rent increases.
- The Notice to Leave was validly served on the Respondent by email on 13 February 2025.
- The Respondent has been in rent arrears continuously since at least 1 March 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 £3295 in rent arrears.

Reasons for decision

16. 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.

17. 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. She 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 £3295 in rent arrears by the Respondent. While this is not a particularly high level of arrears, the Respondent's rent payments have been sporadic. While the Applicant has a number of rental properties, there is a mortgage to be paid over the property

was making mortgage payments in respect of the property each month, despite no rent being received in some months.

32. The Respondent has been living in the property for almost eight years, which is a significant length of time. The Tribunal had little evidence before it regarding the Respondent's circumstances, as she had not submitted written representations during the Tribunal process. It appeared, however that she lives in the property either alone, or possibly with her young daughter, whom she stated was living there in her email of 7 October 2025.

32. The Tribunal gave particular weight to the rent arrears owed by the Respondent to the Applicant. It also noted that the Respondent had not opposed the application, and that she had now given notice to the Applicant and appeared to be planning to leave the property in the near future.

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

8 October 2025

Legal Member/Chair

Date