



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 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/25/1057

Re: Property at 15 Clans Crescent, Nairn, IV12 4TQ (“the Property”)

Parties:

Mr Jason White, 10 Moray Park Gardens, Culloden, Inverness, IV2 7FY (“the Applicant”)

Miss Iona Smith, 15 Clans Crescent, Nairn, IV12 4TQ (“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 10 March 2025, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Grounds 11 and 12 (breach of conditions of the tenancy; rent arrears over 3 consecutive months) 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/proof of service of same, a Rent Statement showing the balance of rent arrears owing at the time of the Notice to Leave being served of £1,265, some evidence regarding the ‘pre-action protocol’ and some details of the alleged breach of tenancy conditions.

2. Following initial procedure and the submission of further supporting documentation, on 25 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 22 September 2025. The application and details of the CMD fixed were served on the Respondent by Sheriff Officer on 15 August 2025. In terms of said notification, the Respondent was given an opportunity to lodge written representations. No representations were lodged prior to the CMD.
4. On various dates between 22 August 2025 and 16 September 2025, the Applicant lodged further written representations and supporting documentation, including updated Rent Statements, photographs showing the condition of the Property previously and the condition as at 9 September 2025, copy messages between the Applicant and Respondent, a report from an electrical tradesperson, paperwork relating to a warrant for entry application to the Tribunal applied for by the Applicant and some redacted statements stated to be from five neighbours in the vicinity of the Property. The Applicant also sought permission to be accompanied at the CMD by his partner as a support, which the Tribunal granted.

Case Management Discussion

5. The CMD took place by telephone conference call on 22 September 2025 at 10am. It was attended by the Applicant, Mr Jason White, who was accompanied by his partner, Ms Isabel Connell. The Respondent did not attend. The Tribunal delayed the commencement of the CMD for 5 minutes to allow an opportunity for the Respondent to join late but she did not do so.
6. Following introductions and introductory remarks by the Legal Member, at which the purpose of the CMD was explained, the application was discussed in detail. Mr White confirmed that he had not had any contact from the Respondent since the date entry was obtained to the Property, on 9 September 2025. She had previously stated that she had applied to the local authority for housing as she was to be homeless and that they had a property in mind for her. It was noted from the messages between the parties which Mr White had lodged that the Respondent had previously indicated her intention to attend the CMD but Mr White stated that he was not surprised that she has not attended. It was noted that Mr White thinks that the Respondent has had her partner residing with her for around two years, although they had split up for a while. However, her partner had answered the door when the Property was being inspected on 9 September 2025 and had been present throughout that. The Respondent has three children between the ages of around 4 and 9, a dog, three cats and a litter of kittens. The Property has two bedrooms. Mr White was not aware of the Respondent having any health conditions or other vulnerabilities.

7. The Legal Member raised the preliminary issue regarding the Applicant stating in his representations that he wished to add two additional grounds to his eviction application, both of which involve alleged anti-social behaviour. The Legal Member explained the general requirement that the eviction grounds being relied upon are to be stated in the Notice to Leave, which was not the case here. Following some further discussion regarding this point, Mr White agreed to proceed only on the original eviction grounds stated, namely Grounds 11 and 12, although it was clarified that he could still make representations on the other matters as they may have relevance as to the overall reasonableness of an eviction order being granted.
8. As to the rent arrears ground, Mr White explained that there was a background of rent arrears, although the first few years of the tenancy overall had run quite smoothly. Eventually he had arranged for rent to be paid via the Respondent's Universal Credit as the rent arrears were continuing to accrue. The rent arrears had started to accrue from around February 2024. It was noted that Mr White had increased the rent during the tenancy twice, from the original rental of £725 to £750 and then to the current rental of £810 per month, which the Respondent had complained about but had not formally challenged. Universal Credit is currently paid at the rate of £695 per month, leaving a shortfall of £115 per month. Mr White stated that the Respondent had previously offered to pay £60 per month towards the shortfall, and later, £50 per month but no payments had ever been made by her. He does not know if she has ever applied for any additional discretionary housing payments from the local authority. Reference was made to the most recent Rent Statement which shows the pattern of payments and arrears accruing and it was noted that the balance stated to be owing as at 3 August 2025 was £2,070, although the Tribunal noted that the rent statement did include a few other items in addition to rent arrears, such as money allegedly owed by the Respondent for damage to a boiler control unit. Mr White confirmed that, since this statement, another rent payment of £810 would have been due for September 2025 and another payment credited to the account of £695 Universal Credit. He confirmed that no payments have been made by the Respondent directly since 3 August 2025, so the overall arrears balance will be almost the same as shown in the statement. The Respondent had apparently indicated previously that she would enter into a payment arrangement with the Applicant in relation to the arrears, once she moves out.
9. Mr White confirmed that the other tenancy breaches alleged mainly relate to the conditions of tenancy regarding the tenant's duties to maintain the Property in a reasonable condition and to not have pets without the landlord's prior consent. He stated that he was agreeable to the Respondent having one cat, which she had at the outset of the tenancy but had refused her permission to have a dog, as a previous tenant's dog had caused damage to the Property and garden. Mr White confirmed she went ahead and got a dog anyway. She subsequently gave up that dog but then got another dog, which is pictured in one of the photographs lodged. Mr White confirmed that one set of photographs he has lodged show the condition of the Property just before he let it to the Respondent and the other set show the current condition of the Property and were taken at the forced entry inspection on 9 September 2025. Mr White confirmed that he had last been able to access the Property in August 2023

and this is why he had required to go through the Tribunal process to seek a warrant for entry. He said he had been upset at the condition of the Property and wanted out of the Property as quickly as possible. He stated that the condition of the Property was “disgusting”, with dirt, mess and clutter everywhere. The garage was stuffed full of binbags of household rubbish and was full of flies. There were holes in the bedroom wall, door handles had been removed and one of the kitchen cupboard doors was completely off. He stated that the carpets were in reasonable condition at the start of the tenancy but that he had agreed to the Respondent replacing them. She paid half of the cost of a replacement carpet in the larger bedroom but he had ended up replacing the others, which he will likely have to replace again. Reference was made to the photographs and it was confirmed that there were various large items of furniture and other items piled up in the front garden. This was a matter that neighbours had complained to him about previously as the Respondent appeared to get new furniture delivered to the Property quite often and would then just put old beds, etc out into the garden and leave them there. Neighbours worried that there was an Environmental Health issue about vermin being attracted.

10. Mr White does not know what he will do with the Property once he recovers it but if he does rent out again, he intends to do so through an agent, as he has had so many problems with this tenancy. He knows he is going to have to spend quite a bit of money doing the Property up. It needs deep-cleaned, rubbish and other items removed, new flooring and decoration. He still needs to get an EICR done as, although the electrician eventually managed to access the Property on 9 September 2025, he had been unable to carry out the EICR due to level of clutter. The garden will need cleared and then the grass re-seeded and fencing work is also needing done. Mr White confirmed that this is his only rental property and that he is still paying a mortgage over this Property as well as the mortgage for his own home. The shortfall in the rent and the money he is going to have to spend sorting out the Property impact his own finances. Mr White knows that the Respondent does not want to live in the Property any more and that it looks as if she will be re-housed by the local authority. He thinks it is reasonable for the Tribunal to grant the eviction order in all the circumstances.
11. The Tribunal Members were satisfied that the ground for eviction was met and also that it was reasonable to grant the order in all the circumstances. There was some brief discussion regarding the paperwork and procedures to follow. Mr White and Ms Connell were thanked for their attendance and the CMD concluded.

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 24 February 2021.

3. The rent due in respect of the tenancy was originally £725 per month but has been increased during the tenancy to £750 and then to the current rental of £810.
4. There was a background of rent arrears dating back to around February 2024.
5. Rent is currently being paid by the Respondent's Universal Credit, but only at the rate of £695 per month, resulting in a current monthly shortfall of £115.
6. The Respondent has offered payment arrangements towards the arrears but has then not made the payments offered.
7. Arrears amounted to around £1,265 when Notice to Leave was served in February 2025, had further increased when this application was lodged, and now amount to around £2,070.
8. The Applicant has sought to engage with the Respondent concerning the rent arrears and issued communications to her in respect of the 'pre-action protocol'.
9. The Respondent has not properly engaged with the Applicant regarding the arrears situation, nor sought to resolve the arrears.
10. The Respondent has a dog, three cats and several kittens living in the Property, without the Applicant's prior permission, contrary to Clause 35 of the Tenancy Agreement.
11. The Respondent has failed to allow access to the Property for repair and inspection; to take reasonable care of the Property, its content and the gardens; to properly dispose of refuse; and to demonstrate respect for neighbouring residents, contrary to Clauses 17, 20, 21, 25, 30 and 32 of the Tenancy Agreement.
12. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by post on 13 January 2025.
13. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 13 February 2025.
14. The Tribunal Application was submitted on 10 March 2025.
15. The Respondent has remained in occupation of the Property.
16. The Applicant gained access to the Property for purposes of inspection on 9 September 2025 by way of a forced entry warrant obtained from the Tribunal.
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 had been 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. Both the rent arrears and the potential costs of rectifying the condition of the Property have/will have an adverse financial impact on the Applicant.
21. 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 at the CMD by Mr White.
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 grounds of eviction relied upon in this application, namely Grounds 11 and 12 were satisfied in that all requisite elements of those grounds had been met.
4. The Tribunal was satisfied that there were significant rent arrears amounting to around £2,000 and that the rent had been continuously in arrears for a lengthy period of time, since around March 2024. Although the Applicant had proactively arranged to receive direct payments towards the rent from the Respondent's Universal Credit, it was clear that there was a shortfall every month between the amount received and the current rent. The Tribunal was satisfied that the Applicant had sought to engage with the Respondent regarding the arrears and agreed payment plans offered by her. However, the agreed payments towards the arrears were not then made. There was no indication that there was a failure or delay in the payments of any benefits due to the Respondent and the Applicant had issued written communications to the Respondent which appeared to satisfy the 'pre-action protocol' in respect of rent arrears eviction applications.
5. The Tribunal was also satisfied from the photographs and other documentation lodged by the Applicant, and from his oral representations at the CMD, that the condition of the Property and its surrounds had significantly deteriorated during the tenancy and that this was the responsibility of the Respondent. The Respondent had repeatedly refused to allow access to the Property to the Applicant, for inspection, since August 2023, and to his electrical tradesman who had attempted on four separate occasions to access the Property for

purposes of carrying out an EICR. The Applicant had only managed to eventually gain access on 9 September 2025, through obtaining a 'forced access' warrant through a separate Tribunal process. The Applicant was clearly upset at seeing the condition of the Property himself and explained that a number of neighbours had also raised concerns with him regarding the Respondent and the impact the condition of the Property was having on them and the immediate neighbourhood. Although the Applicant had agreed to the Respondent having a cat at the Property, he had refused permission for a dog. Despite this, the Respondent was found to have a dog, three cats and several kittens at the Property, which appeared to have contributed to the poor condition of the Property. The Tribunal had regard to the Tenancy Agreement and was satisfied that the Respondent was in breach of several tenancy conditions, including Clause 17 (Reasonable Care); Clause 20 (Access for Repairs, Inspections and Valuations); Clause 21 (Respect for Others); Clause 25 (Contents and Condition); Clause 30 (Private Garden); Clause 32 (Bins and Recycling) and Clause 35 (Pets).

6. The Tribunal also took into account what was known of the Respondent's circumstances, namely that she had three relatively young children living with her, and possibly a partner and that she was in receipt of Universal Credit and appeared, from what she had stated to the Applicant previously, to have been in contact with the local authority and expected to be re-housed by them.
7. As to reasonableness, all the factors mentioned above 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, in these circumstances, 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.

Legal Member/Chair

22 September 2025
Date