

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Chamber Ref: FTS/HPC/EV/25/1719

Re: Property at 38 St Martin Crescent, Dundee, DD3 0SU (“the Property”)

Parties:

Mr Lee Chisholm and Mrs Hilary Mudie, both Dalwhinnie, Priory Road, Gauldry, Fife, DD6 8RT (“the Applicants”)

Mrs Lynsey Chalmers and Mr Ross Chalmers, both 38 St Martin Crescent, Dundee, DD3 0SU (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondents.

Background

1. By application, dated 15 April 2025, the Applicants sought an Eviction Order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Schedule 3 to the 2016 Act, namely that the Respondents have been in rent arrears for three or more consecutive months.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 14 September 2021 at a monthly rent of £1,300, a Notice to Leave, dated 10 January 2025, advising the Respondents that the Applicants were seeking an Eviction Order under Ground 12 of Schedule 3 to the 2016 Act and that an application to the Tribunal would not be made before 15 February 2025, four pre-action protocol letters, dated 14 and 22 November and 2 December 2024 and 8 January 2025, signposting the Respondents to sources of possible help and advice, a Notice of Rent Increase dated 1 April 2024, increasing the rent to £1,450 per

month from 5 July 2024, and a Rent Statement showing arrears of £6,800 at the date of the application.

3. On 3 October 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 24 October 2025. The Respondents did not make any written representations to the Tribunal.
4. On 5 November 2025, the Applicants' solicitors submitted an updated Rent Statement showing arrears at 29 October 2025 of £7,400. On 12 November 2025, they submitted a further Rent Statement showing arrears of £8,850 at 7 November 2025. The Respondents had part paid the rent due in April 2025 but had paid nothing in May. They had then paid the full rent due in June, July, August, September and October 2025, but the arrears remained at that point at £7,400, which increased to £8,850 when the rent due on 7 November 2025 was taken into account.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 12 November 2025. The Applicants were present and were represented by Miss Rachel Cartwright of Morton Fraser MacRoberts LLP, solicitors, Edinburgh. The Respondents were also present.
6. Miss Cartwright told the Tribunal that, as the arrears are substantial and longstanding, it would be reasonable to issue an Eviction Order. The Applicants wished to sell the Property. They did not object to delaying enforcement of an Order until after the Christmas period but would wish an assurance from the Respondents that they would continue to pay the rent in the meantime.
7. The Respondents told the Tribunal that they were not contesting the application. They accepted that they could not afford the rent. They had been in regular touch with Dundee City Council and have silver status on their waiting list, but the Council will do nothing to help them until they have an Eviction Order with a definite eviction date. They did, therefore, want the Tribunal to make the Order, but asked that enforcement be delayed until after the Christmas period. They have three children living with them, one aged 22 just leaving full-time education, another aged 16 who has left school and has just started work, and a 13-year-old, who attends school in Broughty Ferry and lives with the Respondents half of each week. They believed that they would be able to meet the full rent for the remaining period of their tenancy, if the Tribunal issued an Eviction Order. They added that they had paid £1,200 on 11 November and the Applicants confirmed that this had now been received.

Reasons for Decision

8. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information

and documentation it required to enable it to decide the application without a Hearing.

9. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 applies.
10. Ground 12 of Schedule 3 to the Act states that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal may find that Ground 12 applies if, for three or more consecutive months, the tenant has been in arrears of rent and the Tribunal is satisfied that it is reasonable on account of that fact to issue an Eviction Order. In deciding whether it is reasonable to issue an Eviction Order, the Tribunal is to consider 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 the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers.
11. The Tribunal was satisfied that the requirements of Ground 12 had been met and the only question for the Tribunal was whether it would be reasonable to issue an Eviction Order.
12. The Tribunal noted that, whilst the Respondents have managed to pay all or most of their current rent since June 2025, they have been unable to make any inroads on the substantial arrears. They had confirmed to the Tribunal that they cannot afford the rent and that they wish an Eviction Order to be issued, so that they can progress the process of being rehoused by the local authority.
13. Having considered all the evidence before it, the Tribunal decided that it would be reasonable to issue an Eviction Order. It appeared to be in the interests of both Parties to do so. The Tribunal recognised that in the normal course of events, this would result in the Respondents being evicted very shortly before the Christmas and New Year holiday period, when local authority staffing resources are likely to be limited, so decided that the Order should not be enforceable before 6 February 2026, to enable the Respondents to access the support services that they may need. This would bring the tenancy to an end before 7 February 2026, when a further rent payment would otherwise fall due.
14. The Tribunal's Decision was unanimous.

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.

George Clark

Legal Member/Chair

12 November 2025
Date