

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/25/1293

Re: Property at 83 Ivanhoe Crescent, Wishaw, ML2 7DT (“the Property”)

Parties:

Mr Ebenezer Phillips and Mrs Eugena O Phillips, both 40 Phoenix Road, Lordswood, Chatham, Kent, ME5 8TB (“the Applicants”)

Ms Irene Kelly, 83 Ivanhoe Crescent, Wishaw, ML2 7DT (“the Respondent”)

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 Respondent.

Background

1. By application, dated 24 March 2025, the Applicants sought an Eviction Order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Grounds relied on were Ground 12 of Schedule 3 to the 2016 Act, namely that the Respondent has been in rent arrears for three or more consecutive months, and Ground 11, namely that the tenant has failed to comply with an obligation under the tenancy
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 8 February 2018 at a monthly rent of £450, a Notice to Leave, dated 13 February 2025, advising the Respondent that the Applicants were seeking an Eviction Order under Grounds 11 and 12 of Schedule 3 to the 2016 Act and that an application to the Tribunal would not be made before 17 March 2025, pre-action protocol letters dated 30 January and 13 February 2025, a response to a Notice of Rent Increase dated 1 April 2024, increasing the rent to £650 per month from 2024, a letter from North Lanarkshire Council to the Applicant dated 20

November 2024 confirming that the Respondent had instructed them to stop making payments towards her rent directly to the Applicants, and photographs showing damage to the Property, allegedly caused by the Respondent, replaced smoke detectors, and furniture and other rubbish deposited in the garden. The Applicant also provided a Rent Statement showing arrears as at 2 April 2025 of £2,250, with no rent having been paid for five months,

3. On 9 October 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 30 October 2025. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the morning of 19 November 2025. The Applicants were present. The Respondent was not present but was represented by Mr Martin Roberts, Lay Representative, Hamilton Citizens Advice Bureau.
5. The Applicants told the Tribunal that no rent had been paid for one year and that the present arrears are £5,577.63.
6. Mr Roberts told the Tribunal that the Respondent was not opposing the application. He was liaising with colleagues at Motherwell CAB in assisting the Respondent with long-term solutions to her financial difficulties and with her application to the local authority to be rehoused. He stated that she was concerned that an Eviction Order might result in her becoming homeless over the Festive holiday period, when staff resources at the local authority and other agencies that might help her would be limited. He indicated that a period of two months before the Order could be enforced would be preferred. He also confirmed that the Respondent lives alone.
7. The Applicants told the Tribunal that they would be content to allow the two months' period requested by the Respondents' representative.

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 the Respondent has paid no rent at all for a year and has offered no explanation for failing to do so. It appeared to the Tribunal that she is engaging with Citizens Advice in seeking a long-term solution to her financial difficulties, but she has not given any indication as to whether and, if so, when, she might be in a position to restart paying current rent, let alone reducing the arrears.
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 Respondent being evicted very shortly before the Christmas and New Year holiday period, when local authority staffing resources are likely to be limited, so, in accordance with the request by the Respondent and the agreement of the Applicants to that request, decided that the Order should not be enforceable before 19 January 2026, to enable the Respondent to access the support services that she may need.
14. As the Tribunal had made a Decision to issue an Eviction Order under Ground 12 of Schedule 3 to the 2016 act, it did not regard it as necessary to consider the application further under Ground 11.
15. 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

19 November 2025
Date