

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/25/0715

Re: Property at 330 High street, Linlithgow, EH49 7ER (“the Property”)

Parties:

Brae (330 Linlithgow) Limited, 51 Priority Road, Linlithgow, EH49 6BP (“the Applicant”)

Ms Karen Anderson, 330 High street, Linlithgow, EH49 7ER (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Angus Lamont (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 be granted in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that for three or more consecutive months the tenant has been in arrears of rent, and it is reasonable on account of that fact to grant an eviction order.

Background

1. This application for an eviction order was first lodged with the Tribunal on 18th February 2025 and accepted by the Tribunal on 20th March 2025. A case management discussion was fixed for 30th July 2025 at 2pm.

Case Management Discussion

2. The Case Management Discussion was attended by Mr and Mrs Miles, Directors of the Applicant company who were attending from the United States. There was no appearance by or on behalf of the Respondent and the Tribunal determined that it was appropriate to proceed in her absence as the application, papers, and the date of the

case management discussion had been intimated to the Respondent by Sheriff Officers putting these through the letterbox at the property on 10th June 2025.

3.The Tribunal had sight of the Application, a tenancy agreement and easy read notes, a Notice to Leave, a payment schedule, an e mail, proof of postage, screenshots, emails sent to the Respondent regarding rent dated 26/3/24,13/6/24,18/9/24 and 30/10/23.A notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 was also lodged together with an email sending this to the local authority.

4.The parties had entered into a private residential tenancy agreement to rent the property with effect from 21st April 2023.The monthly rent is £775 per month, and this was paid until September 2023 when rent arrears started to accrue as the rent was not being paid every month.

5. Mrs Miles confirmed that she had hand delivered the Notice to Leave on 13th January 2025 and the Tribunal had sight of screenshots showing the property street door and an envelope being put through the door of the property itself on that date. Mrs Miles confirmed that she had entered the property and had put the Notice to Leave through a second door, the door to the actual property at 330 where the Respondent lived. The Notice to Leave had also been posted and emailed to the Respondent. This Notice to leave was dated 13th January 2025 and indicated that the earliest date an application would be made to the Tribunal would be 11th February 2025.

6.Mr and Mrs Miles knew little of the Respondent's situation. They had understood that she had a catering business initially during the tenancy. Payments of rent had ceased, and they had written to her several times to try to chase up the rent arrears and to signpost her to sources of support. They had offered support when she had changed employment. They had tried mediation, but contact had ceased, and the Respondent was not communicating with them. They had become aware of a legal letter seeking to raise an action against the Respondent's business and this had concerned them.

7.Mr and Mrs Miles were not aware of any other family members at the property although they understood that the Respondent sometimes looked after her granddaughter. Whilst they had tried to keep their distance from the property, they believed that the Respondent was still living there.

8.The last rent paid had been in November 2024.A payment plan had been agreed with the Respondent in June 2024 when she agreed to pay £300 every week until the arrears were cleared but the rent arrears continued to increase. As of June 2025, the rent arrears amounted to £6520.The Applicants advised their company was a small one, not a large professional landlord and this was a small property with a significant mortgage. They considered that the company was on the brink of insolvency, and they were having to inject personal payments to keep the company going whilst the rent was unpaid, and this position was not sustainable.

9.The Tribunal had sight of a notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003, and this had been emailed to West Lothian Council on 13th February 2025.

10.The Tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

11.The parties entered into a private residential tenancy agreement at the property with effect from 21st April 2023 with monthly rent payable of £775.

12.Rent arrears started to accrue in October 2023.

13.The Applicants wrote to the Respondent on a number of occasions regarding the outstanding rent and signposted her to sources of support by email of 30th October 2023.

14.The parties agreed a payment plan for the rent arrears in June 2024, but this was not adhered to by the Respondent and the rent arrears increased.

15.No payments of rent have been made by the Respondent since November 2024 and the rent arrears in June 2025 reached £6520.

16.The Respondent still lives at the property but no longer communicates with the Applicants.

17.The Respondent lives alone at the property and was understood by the Applicants to run her own business before becoming employed in June 2024.

18.The rent arrears have not accrued due to any failure or delay in the payment of a relevant benefit.

19.A Notice to Leave in proper form and setting out Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 was hand delivered to the Respondent by putting this through the letterbox at the property on 13th January 2025 and also emailed to the Respondent indicating that an application to the Tribunal would not be made before 11 February 2025.

20.A Notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 was emailed to West Lothian Council in relation to this application on 13th February 2025.

21.The Applicants run a company which is small and is not a large professional landlord.

22.The Applicants are having to make personal payments into the company to sustain it in the absence of rent payments being made and this position is not sustainable for them.

Reasons for Decision

The Tribunal was satisfied that the Notice to Leave had been hand delivered to the Respondent, giving her the required period of notice to leave the property and that a Notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 had been sent to the local authority in relation to this application. The Tribunal was of the view that it was reasonable to grant an eviction order as the Respondent has not paid rent since November 2024 and had ceased to communicate with the Applicants who have made efforts over a period of time to assist and support her whilst seeking to recover the rent arrears. The financial position of the Applicants having to make personal payments to meet the mortgage payments in the absence of rent being paid is not sustainable by them. The Respondent has chosen not to engage with the Tribunal proceedings, and it is reasonable to grant the order.

Decision

The Tribunal determined that an eviction order be granted in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that for three or more consecutive months the tenant has been in arrears of rent, and it is reasonable on account of that fact to grant an eviction order

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.

Valerie Bremner

Legal Member/Chair

Date 30/07/2025