



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51(1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/25/2469

**Re: Property at 46 Hazelgrove, Kilwinning, North Ayrshire, KA13 7JH (“the
Property”)**

Parties:

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

**Ms Katriona Lynch, 46 Hazelgrove, Kilwinning, North Ayrshire, KA13 7JH (“the
Respondent”)**

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Frances Wood (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to grant an order for eviction. The Tribunal determined
that it was reasonable to suspend enforcement of the order until 5 January
2026.**

Background

1. By application dated 10 June 2025 the applicant seeks an order for eviction, relying on ground 12 (rent arrears for three or more consecutive months) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The application was conjoined with application reference FTS/HPC/CV/25/2476 seeking an order for payment of arrears in the sum of £3528.90.

3. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Notice to Leave with proof of delivery
 - Rent statements
 - Rent increase notice dated 10 July 2024
 - Pre action correspondence
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. A case management discussion (“cmd”) was assigned for 19 November 2025.

Case management discussion – 19 November 2025- teleconference

5. The applicant was represented by Ms Barclay, Property Manager, Easton Group. The respondent attended with her mother as her supporter.
6. Ms Barclay sought an order for eviction. She referred to an updated rent account that had been submitted which showed that arrears had increased to £3728.86. She submitted that the respondent had been continuously in arrears since July 2021. Ms Barclay stated that 2 rent increase notices had been served on the respondent since the commencement of the tenancy which had increased the rent from £450 to the current monthly charge of £600. Ms Barclay stated that there was an outstanding mortgage over the property. She stated that the applicant was the landlord of multiple properties.
7. The respondent did not oppose an order for eviction. She stated that the property was unsuitable for her family. The respondent stated that she lived with her 2 children, age 9 and 11. Her youngest child is affected by a medical disability. The respondent stated that she is also affected by a medical condition which impacts on her mobility. The respondent stated that she has applied to the local authority for ground floor accommodation which will be more suitable to the family needs. She currently has a high level of priority and she expects things to be moved forward should an eviction order be granted.
8. The respondent stated that the property was also unsuitable as it was extensively affected by disrepair issues. She stated that she had withheld rent for a period to try and force the landlord to carry out repairs to the property. The respondent stated that she had concerns about the safety of the electrics in the

property and the condition of the windows. She also had concerns about the safety of the house in the event of a fire.

9. The respondent stated that she had been in receipt of benefits since she moved into the property. She stated that the rent had initially been covered in full by housing benefits however it had not been increased in line with the rent increases referred to by Ms Barclay. Housing benefits had latterly been paid direct to the landlord.
10. The respondent did not dispute that there had been arrears of rent for a period of 3 consecutive months however she did dispute the level of arrears stated by Ms Barclay.

Findings in fact

11. Parties entered into a tenancy agreement with a commencement date of 14 December 2017.
12. A valid notice to leave was served on the respondent on 9 May 2025.
13. Initial monthly rent due in terms of the agreement was £450.
14. The respondent does not dispute that there have been rent arrears for 3 or more consecutive months.
15. The respondent has been in receipt of universal credit housing costs throughout the duration of the tenancy.
16. The respondent suffers from a medical condition which impacts her mobility.
17. The respondent has applied for alternative housing from the local authority as she believes the property to be unsuitable for her family.
18. The applicant is a landlord with multiple rental properties.
19. The respondent does not oppose an order for eviction being granted.

Reasons for decision

20. Rule 17 (4) states:

The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

21. Rule 18 states:

Power to determine the proceedings without a hearing

18.—*(1) Subject to paragraph (2), the First-tier Tribunal—*

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

22. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interests to do so at the cmd without the need for a further hearing.

23. Ground 12 states:

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.

24. The Tribunal accepted the respondent's submission that there had been arrears of rent for a period in excess of three months albeit she did not accept the amount of arrears stated by Ms Barclay. In light of the lack of opposition from the respondent the Tribunal accepted that the technical requirement of the ground had been met.
25. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against.
26. The Tribunal gave great weight to the fact that the respondent did not oppose an order for eviction being granted. The Tribunal accepted her evidence that she had applied for an alternative property from the local authority. The Tribunal accepted the respondent's evidence that she hoped to move to a property that was more suited to her family's needs.
27. In light of the respondent's lack of opposition to an order for eviction being granted the Tribunal determined that on balance it was reasonable to grant an order.
28. The Tribunal sought parties' views on whether any suspension of the period before enforcement was appropriate. After some discussion it was agreed that enforcement would be suspended until 5 January 2025 to allow for the Christmas period.

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.

Mary Claire Kelly

Legal Member/Chair

19 November 2025
Date