

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)**

Chamber Ref: FTS/HPC/EV/25/2141

Re: Property at 6 Paterson Way, Stirling, FK7 9RF (“the Property”)

Parties:

Ms Heather Pennie, 10 The Oval, Lulworth Camp, BH20 5QA (“the Applicant”)

Mr Chip Wolf, Tyler Shaw, 6 Paterson Way, Stirling, FK7 9RF (“the Respondents”)

Tribunal Members:

Virgil Crawford (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

BACKGROUND

1. By lease dated 7 May 2024 the Applicant let the Property to the Respondents.
2. The start date of the tenancy was 9 May 2024.
3. Rent was payable at the rate of £995.00 per calendar month.
4. The Respondents fell into arrears of rent. The rental payment due on 9 October 2024 was not paid. Since then, £2.00 was paid on 12 November 2024 and £993.00 was paid on 10 December 2024. No further payments of rent have been made.

5. The Applicant served a Notice to Leave on the Respondents. The Notice to Leave intimated that the Applicant sought vacant possession as she intended to sell the property. The Notice to Leave did not make reference to any ground of eviction relating to rent arrears.
6. Two separate applications were submitted to the Tribunal, one seeking an order for eviction (EV/25/2141) and one seeking a payment order in relation to arrears of rent (CV/25/2145).
7. A Notice in terms of s11 of the Homelessness Etc (Scotland) Act 2003 was intimated to the Local Authority.
8. An updated rent statement was forwarded to the Tribunal prior to the Case Management Discussion. The updated rent statement confirmed that, as of 9 October 2025, the amount outstanding by way of rent was not less than £11,439.00.

THE CASE MANAGEMENT DISCUSSION

9. The Applicant was represented at the Case Management Discussion by Mr A Devlin, Trainee Solicitor, Clarity Simplicity Limited, Glasgow. The Applicant participated personally in the Case Management Discussion also. A supporter, Mr C Jamieson, attended by teleconference also. The Respondents did not participate in the Case Management Discussion. The Tribunal, however, was in receipt of a certificate of intimation by Sheriff Officers confirming that the proceedings had been intimated upon the Respondents. In the circumstances, the Tribunal was satisfied in terms of Rule 24 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the FTT Regs") that the respondents had received intimation of the date and time of the Case Management Discussion and considered that it was appropriate to proceed with the Case Management Discussion in the absence of the Respondents in accordance with Rule 29 of the FTT regs.

Eviction

10. Mr Devlin moved the Tribunal to grant an order for eviction. He explained that the Property is the only property owned by the Applicant. She currently resides in England. Her partner is in the armed forces, and they currently reside in military accommodation in England. It is the intention of the Applicant and her partner to return to Scotland. She wishes to sell the Property to purchase an alternative property for herself and her partner.
11. The Property was let to the Respondents prior to the Applicant relocating to England. It was anticipated that the rental income would cover the mortgage payments in relation to the Property. The rent, however, has not been paid for some time and, as a result, the Applicant is under financial pressure as she requires to pay the mortgage on the Property and also rent for the accommodation she is residing in in England.

12. Documentation was been provided to the Tribunal to confirm that Martin and Co., Property Agents, have been instructed to market the Property for sale once vacant possession is obtained. Attempts at progressing the sale of the Property have been hindered by the refusal of the Respondents to engage with Martin and Co.
13. In relation to the personal circumstances of the Respondents, they are both adults, both believed to be in employment. At the start of the tenancy the first named Respondent Mr Wolf, was in employment and produced confirmation of funds to enable the tenancy agreement to be entered into. The Second Respondent, Miss Shaw, is believed to have been a student at that time but is understood to now be employed. They have no children.
14. The Respondents have failed to engage with the Applicant or her agents. The last engagement with them was when the Notice to Leave was served. Persistent attempts to contact them have been unsuccessful. It is not known whether they still occupy the Property, but it is believed they do.
15. While arrears of rent were not referred to in the Notice to Leave nor did they form the basis of the application for an eviction order, the arrears of rent are relevant in determining whether it is reasonable to grant an order for eviction. Having regard to all the circumstances made known to the Tribunal, the Tribunal considered it to be reasonable to grant an order for eviction.

Rent Arrears

16. In relation to rent arrears, at the time of the application to the Tribunal, arrears of rent were said to amount to £4,974.00. The Application sought interest at the rate of 8 per cent per annum on any payment order made.
17. In advance of the Case Management Discussion an updated rent statement was provided to the Tribunal. This showed rent arrears amounting to £11,939.00. Mr Devlin moved the Tribunal to amend the sum claimed to that amount.
18. Upon enquiry by the Tribunal, it was confirmed that £500.00 of that amount related to a "pet deposit" which had been requested but not paid. This was to enable the Respondents to have a dog within the Property.
19. It is not known whether, had this "pet deposit" had been paid, the Applicant would have had any right to retain it at the termination of the tenancy. Any such deposit, of course, ought to have been lodged with a tenancy deposit scheme following payment and it may well have been due back to the Respondents at the termination of the tenancy.

20. In the circumstances, Mr Devlin accepted that the sum of £500.00 should be deducted from the outstanding balance of £11,939.00. The balance due, in relation to rent arrears is, therefore £11,439.00. The Tribunal amended the amount claimed to £11,439.00 and thereafter granted a payment order in that amount.

21. In relation to interest, the lease does not provide for interest on late payments. The Tribunal, however, has a discretion in relation to applying interest to payment orders. After discussing the matter of interest on the payment order, the Tribunal applied interest at the rate of 5 per cent per annum.

FINDINGS IN FACT

22. The Tribunal found the following facts to be established:-

- a) By lease dated 7 May 2024 the Applicant let the Property to the Respondents.
- b) The start date of the tenancy was 9 May 2024.
- c) Rent was payable at the rate of £995.00 per calendar month.
- d) The Respondents fell into arrears of rent. No payments of rent have been made since December 2024.
- e) Arrears of rent amount to not less than £11,439.00.
- f) The Applicant served a Notice to Leave on the Respondents. The Notice to Leave intimated that the Applicant sought vacant possession as she intended to sell the Property.
- g) A Notice in terms of s11 of the Homelessness Etc (Scotland) Act 2003 was intimated to the Local Authority.
- h) Martin and Co., Property Agents, have been instructed to sell the Property.

REASONS FOR DECISION

Eviction

23. In relation to the eviction order, the Applicant intends selling the Property and Martin and Co., Property Agents, have been instructed to market the Property for sale once vacant possession is obtained. The reasons for the intention to sell the property were explained to the Tribunal and appear to be a reasoned decision on the part of the Applicant.

24. While arrears of rent did not form any part of the Application for an eviction order, the arrears of rent were considered relevant by the Tribunal in determining the issue of reasonableness.

25. Having regard to the personal situation of the Applicant, the intention to relocate to Scotland and to sell the Property to obtain funds to purchase an alternative property for the Applicant and her partner to reside in, together with the significant arrears of rent and the absence of any information to

suggest the contrary, the Tribunal considered it reasonable to grant an order of eviction.

Rent Arrears

26. In relation to arrears of rent, an updated rent statement was provided to the Tribunal. No payment of rent has been made since December 2024. The amount due and payable to the Applicant by the Respondents is not less than £11,439.00. A payment order in that amount was, therefore, granted.

DECISION

The Tribunal granted an order against the Respondents for eviction of the Respondents from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 of Schedule 3 to said Act

Order not to be executed prior to 12 noon on 3rd December 2025

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.

Virgil Crawford

Virgil Crawford

Legal Member/Chair

27 October 2025

Date