



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/25/1038

Re: Property at 7 Parliament Place, Lochgelly, KY5 0XD (“the Property”)

Parties:

Mrs Rona Couser, 15 West End, Kinglassie, Fife, KY5 0XG (“the Applicant”)

Mr Robert Sutherland, Mrs Lauren Sutherland, 7 Parliament Place, Lochgelly, KY5 0XD (“the Respondents”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mrs F Wood (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted.

Background

1. This is a Rule 109 application whereby the Applicant was seeking an order for eviction under grounds 1, 11 and 12. The Applicant representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 25th October 2023 at a monthly rent of £540. The Applicant representative also lodged a notice to leave and section 11 notice both with evidence of service, photographs and a rent statement.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondents by Sheriff Officer on 2nd October 2025.
3. By email dated 10th October 2025, the Applicant representative lodged an updated rent statement showing arrears in the sum of £7443.58.

The Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference on 11th November 2025. The Applicant was not in attendance and was

represented by Mr Murray, Solicitor. The Respondents were not in attendance. The start of the CMD was delayed to allow the Respondents to attend.

5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondents.
6. Mr Murray said the Applicant was seeking an eviction order based on non-payment of rent and breach of tenancy. Mr Murray said it was believed one of the Respondents had now moved out of the Property. The remaining Respondent had requested a sole tenancy agreement, but the Applicant did not wish to grant this. Payments were made to rent and arrears by Universal Credit in August and September 2025, but no further payments have been made. The Respondents are believed to have been running a business from the Property and the garden has not been maintained. Responding to questions from the Tribunal as to whether there was any further evidence in respect of the allegation of running a business from the Property, Mr Murray said he had not been provided with any further evidence. Responding to questions as to when the photographs of the garden were taken, Mr Murray said he did not have this information.
7. Responding to questions from the Tribunal, Mr Murray said the Applicant had been told by the Respondents in the past that they were seeking social housing and required an eviction order to secure this housing.
8. Responding to questions from the Tribunal, Mr Murray said he was not aware that any pre-action requirement correspondence had been issued to the Respondents,
9. Mr Murray said the Applicant is retired and relies on the rental payments from this Property to supplement their pension. The Applicant is believed to have two other rental properties. The Applicant has recently downsized to save energy costs.
10. Following an adjournment to take instructions, Mr Murray confirmed the Applicant was no longer seeking an eviction order under ground 1.
11. Responding to questions from the Tribunal, Mr Murray said the Respondents have four children, some of whom have a disability or special needs. Neighbours have reported that the Respondents may both have left the Property. The children have not been seen for a month or so. One of the Respondents has advised the Applicant of health issues in the past, but Mr Murray said he did not know if this was true.

Findings in Fact and Law

12.

- (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 25th October 2023 at a monthly rent of £540.
- (ii) The Applicant has served a Notice to Leave upon the Respondents.
- (iii) The Respondents have accrued rent arrears.
- (iv) The Respondents have been in rent arrears for three or more consecutive months.
- (v) The Respondents being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
- (vi) The Applicant has not complied with the pre-action protocol.
- (vii) It is reasonable to grant an eviction order.

Reasons for Decision

13. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if for three or more consecutive months the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that ground 12 has been established.
14. The Tribunal was not satisfied that ground 11 had been established. There was insufficient evidence to indicate that the Respondents were running a business from the Property. The evidence provided did not show a business address or the identity of the business proprietors. The evidence provided to show that the garden had not been maintained was insufficient. The photographs showed weeds and items of rubbish in a garden, but there was no indication when the photographs were taken, nor was any evidence provided to show the state of the garden at the start of the tenancy.
15. 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 that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the Respondents were in rent arrears as a result of a delay or failure in the payment of a relevant benefit.
16. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action

protocol prescribed by the Scottish Ministers in regulations. No pre-action correspondence was served upon the Respondents. The Tribunal considers this to be a serious omission on the part of the Applicant, and this was considered further when considering reasonableness.

17. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
18. The Respondents have accrued substantial rent arrears, which are rising. The Respondents did not see fit to attend the hearing or provide any representations. The Tribunal noted that two payments towards rent and arrears had been made in August and September by Universal Credit; however, no further payments had been made. The Tribunal considered that, if the anecdotal evidence given on behalf of the Applicant that the Respondents have children who may be disabled and that one of the Respondents suffers from ill-health, these factors may increase the impact of an eviction order upon the Respondents. However, in the absence of any representations from the Respondents, the Tribunal was unable to assess the impact of an eviction order upon the Respondents and their family.
19. The Tribunal considered the Applicant is entitled to receive rent lawfully due. The non-payment of rent is impacting upon the Applicant financially. The arrears are substantial, and the Respondents' failures in this regard mean the arrears are likely to continue to rise if no order is granted. It would appear that the tenancy is unsustainable given the significant rent arrears.
20. The Tribunal considered it was regrettable and serious that no pre-action correspondence had been issued to the Respondents; however, they could not fail to be aware of their obligation to pay rent or the fact that they are in significant rent arrears.
21. In all the circumstances, the Tribunal considered it was reasonable to grant the order sought.

Decision

22. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 15th 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.

H Forbes

Legal Member/Chair

11th November 2025
Date