



**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/25/0330

Re: Property at 132 Lewis Road, Aberdeen, AB16 6TG (“the Property”)

Parties:

Mrs Susan Park, 37 Dean Gardens, Westhill, Aberdeenshire, AB32 6TF (“the Applicant”)

Mr Euan Mackay, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Robert Buchan (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. On 28th January 2025 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 10 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 1st February 2021;
 - ii. Copy Notice to Leave dated 17th December 2024;
 - iii. Section 11 Notice and proof of service;

3. On 7th May 2025 the Applicant lodged an application for Service by Advertisement and provided a no trace report from Sheriff officers.
4. The Tribunal produced a Certificate of Service dated 7th November 2025.

Case Management Discussion

5. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant represented herself. The Respondent did not dial in and was not represented.
6. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
7. The Applicant sought an order for eviction in terms of ground 10 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. She said the last correspondence she had with the Respondent was in June 2023. The police broke in and carried out a welfare check in October 2023. All they could tell her was that they were no longer looking for the Respondent. Rent was paid by way of Universal Credit until March 2024, and stopped shortly after the Applicant had contacted them to query if they knew where the Respondent was. The Applicant said that she has to attend the property every week as part of her contract of insurance and there has never been any sign that the Respondent has returned. She also pointed out that the sheriff officers had not been able to trace the Respondent.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property;
- b. The tenancy commenced on 1st February 2021;
- c. A Notice To Leave, dated 17th December 2024, was served on the Respondent;
- d. A section 11 notice was served on the local authority;
- e. The Respondent has not made any contact with the Applicant since June 2023;
- f. The Respondent is not known to have occupied the property since October 2023;
- g. The Applicant checks the property every week for insurance purposes;
- h. The Applicant has taken steps to attempt to trace the Respondent but without success.

Reasons for Decision

8. Ground 10 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 is as follows:

10(1) It is an eviction ground that the tenant is not occupying the let property as the tenant's home.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

(a) the let property is not being occupied as the only or principal home of—

(i) the tenant, or

(ii) a person to whom a sub-tenancy of the let property has been lawfully granted,

(b) the property's not being so occupied is not attributable to a breach of the landlord's duties under Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts

(3) In sub-paragraph (2), the reference to a sub-tenancy being lawfully granted is to be construed in accordance with section 46(3).

9. The Tribunal is satisfied that the Respondent is not occupying the property as his only or principal home and has not done so since October 2023. The ground is therefore established.
10. The Tribunal is satisfied that it reasonable to grant the order as the Respondent has not made any contact with the Applicant since June 2023 and is not occupying the property.

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.

Alison Kelly

Legal Member/Chair

07.11.2025
Date