

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/25/0952

Re: Property at 3C Nursery Lane, Brechin, DD9 7DL (“the Property”)

Parties:

Mr Allen Davidson and Mrs Norah Helen Davidson, both 2 Johnston Street, Laurencekirk, AB30 1AN (“the Applicants”)

Mr Paul Lloyd, 3C Nursery Lane, Brechin, DD9 7DL (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

1. By application, dated 4 March 2025, the Applicant sought an Order for Possession of the Property under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Schedule 3 to the 2016 Act, namely that the Respondent has been in rent arrears for three or more consecutive months.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 18 September 2024 at a monthly rent of £495 per month, a Notice to Leave, dated 23 January 2025, advising the Respondent that the Applicant was seeking an Eviction Order under Ground 12 of Schedule 3 to the 2016 Act and that an application to the Tribunal would not be made before 23 February 2025, four pre-action protocol letters dated between 14 November 2024 and 24 January 2025, signposting the Respondent to sources of possible help and advice, and a Rent Statement showing arrears of £1,980 as at 18 January 2025.

3. The Applicants stated that the Respondent had paid the deposit and the first month's rent but had paid nothing since then.
4. On 18 September 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 9 October 2025. The Respondent did not make any written representations to the Tribunal.
5. On 22 April 2025, the Applicants' solicitors submitted an updated Rent Statement showing arrears at 17 April 2025 of £2,970, with nothing having been paid since the date of the application.

Case Management Discussion

6. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 30 October 2025. The Applicants were represented by Mr Neal Wheat of Lamonts, solicitors, Dundee. The Respondent was not present or represented.
7. Mr Wheat told the Tribunal that the Respondent is believed to be still living in the Property, has paid no rent at all, apart from that for the first month, and that the arrears now stand at £5,445. He was not aware of any vulnerability or disability affecting the Respondent, who was believed to have been in work at the start of the tenancy. So far as Mr Wheat was aware, the Respondent did not have any dependants living with him.

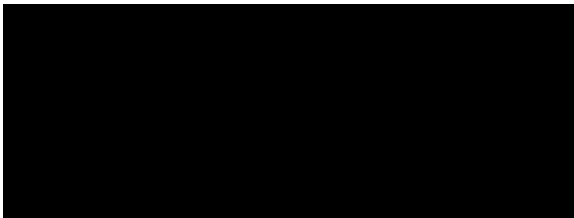
Reasons for Decision

8. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
9. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 applies.
10. Ground 12 of Schedule 3 to the Act states that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal may find that Ground 12 applies if, for three or more consecutive months, the tenant has been in arrears of rent and the Tribunal is satisfied that it is reasonable on account of that fact to issue an Eviction Order. 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 the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers.

11. The Tribunal was satisfied that the requirements of Ground 12 had been met and the only question for the Tribunal was whether it would be reasonable to issue an Eviction Order.
12. The Tribunal noted that the arrears are very high and longstanding and that the Respondent did not take up offers in a number of pre-action protocol letters to discuss a payment plan. He had also failed to provide any written representations or to appear at the Case Management Discussion to offer any reason why it would not be reasonable to issue an Order against him.
13. Having considered all the evidence before it, the Tribunal decided that it would be reasonable to issue 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.



30 October 2025
Date