

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/25/2046

Re: Property at 69 Strathlogie, Westfield, West Lothian, EH48 3DA (“the Property”)

Parties:

Ms Anne Millar, Flat 1 a Glenfauldes, 10 Mount Stuart Road, Rothesay, Isle of Bute, PA20 9DY (“the Applicant”)

Alan Churne and Gillian Pilmer, both 69 Strathlogie, Westfield, West Lothian, EH48 3DA (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

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 Respondents.

Background

1. By application, dated 13 May 2025, the Applicant sought an Eviction Order 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 Respondents have been in rent arrears for three or more consecutive months.
2. The application was accompanied by copies of a Notice to Leave, dated 19 March 2025, advising the Respondents 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 17 April 2025, a pre-action protocol letter, dated 22 April 2025, signposting the Respondents to sources of possible help and advice, with proof of posting on that date, and a Rent Book showing arrears of £3,300 at the date of the application. No rent had been paid from 1 April to 1 September 2024 inclusive and the arrears represented the six missed payments between those dates. The Applicant

was unable to provide a copy of the tenancy agreement but stated that it had begun on 1 March 2023 at a rent of £550 per month.

3. On 22 October 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 24 October 2025.
4. On 11 November 2025, the Respondents made written representations to the Tribunal. They did not deny that the rent arrears were due but stated that when they first took the Property it was not in a habitable condition. It had no kitchen, no bathroom and no skirting boards downstairs and the fireplace was an open hole in the wall. They had installed a new kitchen and bathroom, redecorated throughout, fixed floorboards and plumbing issues and installed a new fence. They had had to spend all the money to return the Property to a habitable state. They had supported the Applicant through a difficult time following the loss of her father and had sent her some money as she was struggling. They stated that they had not received the pre-action protocol letter from the Applicant and that, had they received it, they would have contacted her by return. There was, however, a point where things turned nasty. They were subjected to a number of nasty phone calls from the Applicant, who then failed to turn up at the Property after arrangements were made for her to do so. She then sent round a friend called Pam, from KnightBain, who indicated that all communication could go through her and that the Applicant had had people taking photographs of the Property and reporting back to her. This was a massive invasion of privacy which seriously affected Ms Pilmer's mental health. The Respondents concluded by saying that they have done a lot of work to the Property. It is their and their children's family home and they would like to sort out a payment arrangement with the Applicant and stay in the Property, as they love it and the children are happy and settled at school.
5. On 13 November 2025, the Applicant's solicitors submitted a copy of the updated Rent Book showing arrears of £3,300 at 3 November 2025. No payments had been missed after the one due on 1 September 2024, but no additional sums had been paid towards reducing the arrears.

Case Management Discussion

6. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 11 December 2025. The Applicant was present and was represented by Ms Alexandra Wooley of Bannatyne Kirkwood France & Co, solicitors, Glasgow. The Respondents were also present.
7. The Respondents told the Tribunal that they accepted responsibility for the rent arrears. They had spoken with Citizens Advice in March 2024, as they understood their tenancy to be for a year. Citizens Advice had told them that if they did not have a current lease, they were not under an obligation to pay rent. The Respondents now realise that this advice was wrong and they had told Pam from KnightBain that they were willing to enter into a payment plan

to clear the arrears. They understood that she would convey this to the Applicant, but they heard nothing further. They accepted that they had not made an offer of a specific sum each month towards the arrears and that they should perhaps have been more proactive when they heard nothing back. They had made enquiries about a couple of other rental properties, but these had come to nothing. They confirmed that they pay the rent directly to the Applicant. It is not met from benefits payments.

8. Ms Wooley told the Tribunal that there had been other informal discussions between the Parties in the last few months, but the Respondents had not come forward with any definite proposal. This is the Applicant's only rental property and, if she recovers possession, she intends to sell it as she no longer wants the responsibility of being a landlord. Ms Wooley's instructions were, therefore, to ask for an Eviction Order. The Respondents had received the Notice to Leave in March and had had a considerable period of time to look for alternative accommodation. The arrears have existed for more than a year, with no real engagement by the Respondents.

Reasons for Decision

9. 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.
10. 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.
11. 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.
12. 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.
13. The Tribunal noted that, although rental payments had resumed in October 2024, and the Respondents admitted the arrears, they had made no effort to

clear them and had made no offer to pay back by monthly instalments. It was for the Respondents to make an offer for the Applicant to consider and, when the Applicant's friend did not come back with a response to their message to the Applicant that they would like to come to some arrangement, they should have pursued the matter further. The Tribunal had not seen the tenancy agreement, but even if it was for a year, if, as was the case, the Respondents continued to live in the Property, it could only be ended by an application to the Tribunal for an Eviction Order. It was not reasonable to form the view that they could stay on without paying any rent. If they understood the arrangement to be for one year only, the Tribunal would have expected them to have vacated the Property at the end of that period and, if they chose not to, they should have expected to have to continue to pay rent. Instead, they ran up six months' arrears and had not at any time since they restarted monthly payments in October 2024, offered any concrete proposal for the Applicant to consider whereby a payment plan could have been agreed and they could have stayed on in the Property.

14. Having considered all the evidence before it, the Tribunal decided that it would be reasonable to issue an Eviction Order but that the earliest date for execution would be 30 January 2026, as the Tribunal recognised that access to support services would be limited over the Christmas and New Year holiday periods.

15. The Tribunal's Decision was unanimous.

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.

George Clark

Legal Member/Chair

11 December 2025
Date