



**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/25/1653**

**Re: Property at 16 Dasher Gardens, Ardrossan, North Ayrshire, KA22 7NN (“the Property”)**

**Parties:**

**Mr Stewart Robertson, 2 Maidenhead Gardens, Maidens, Girvan, KA26 9NZ (“the Applicant”)**

**Mr Craig Morrison, 16 Dasher Gardens, Ardrossan, North Ayrshire, KA22 7NN (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member) and Jane Heppenstall (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 17<sup>th</sup> April 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 12 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 10<sup>th</sup> February 2023 and a rent of £550 per month;
  - ii. Copy Notice to Leave dated 29<sup>th</sup> January 2025;

- iii. Copy email dated 29<sup>th</sup> January 2025 to the Respondent serving the Notice to Leave;
  - iv. Section 11 Notice and proof of service;
  - v. Copy Rent Statement showing arrears of £3561.45 as at 15<sup>th</sup> May 2025;
  - vi. Pre Action Requirements emails
3. The Application was served on the Respondent by Sheriff Officers on 16<sup>th</sup> October 2025.

## **Case Management Discussion**

4. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Mr Scott of Rentolease Property Management Limited. There was no attendance by the Respondent or any representative on his behalf.
5. 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.
6. Mr Scott sought an order for eviction in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. He said that the arrears now stood at £3792.41. He said that the Respondent had been a really good tenant until October 2024, when he missed a rental payment. There was a six month period when he paid no rent at all. The Applicant served the Notice to Leave. At the expiry of the notice period the Respondent appeared to have vacated the property and the Applicant was about to re-let it. However, the Respondent was told by the Council that he would need to occupy it until an eviction order was granted, so he moved back in. Mr Scott said that he managed to persuade Universal Credit to pay the housing element of the Respondent's benefit direct to the Applicant, and they also made some deduction from the Respondent's benefits towards arrears, which was also paid to the Applicant. However, these payments ceased in October 2025. Throughout the period the Respondent has refused to engage. The property is a two bedroomed flat. The Respondent lives there alone. He has no disabilities and the property has not been adapted.

## **Findings in Fact**

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing 10<sup>th</sup> February 2023 and a rent of £550 per month
- b. A Notice To Leave, dated 29<sup>th</sup> January 2025, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. The Applicant complied with the Pre Action Requirements;
- e. The Application was served on the Respondent by Sheriff Officer on 16<sup>th</sup> October 2025;

- f. The Respondent was in arrears of rent for three consecutive months at the time the Notice to Leave was served;
- g. The arrears currently stand at £4792.41;
- h. The Respondent lives alone in the property.

## Reasons for Decision

7. Ground 12 states as follows:

*12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*

*(2) . . . . .*

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

- (a) for three or more consecutive months the tenant has been in arrears of rent, and*
- (b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.*

*(4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider—*

- (a) 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*
- (b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.*

*(5) For the purposes of this paragraph—*

*(a) references to a relevant benefit are to—*

- (i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),*
- (ii) a payment on account awarded under regulation 91 of those Regulations,*
- (iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,*
- (iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,*
- (b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.*

*(6) Regulations under sub-paragraph (4)(b) may make provision about—*

*(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),*

*(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,*

*(c) such other matters as the Scottish Ministers consider appropriate.*

8. The Tribunal is satisfied that the ground of eviction has been met. The Tribunal is also satisfied that it is reasonable to grant the eviction order. The Respondent has made no effort to pay anything towards the rent himself in over a year. The arrears now equate to over eight months of missed payments, which makes granting the order reasonable in and of itself.

## **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**

**28<sup>th</sup> November 2025**

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**Date**