



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51(1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/25/1700

**Re: Property at 19F Clyde Drive, Craigshill, Livingston, EH54 5LF (“the
Property”)**

Parties:

**Mr Derek Johnston, 15 Ramsay Court, Craigshill, Livingston, EH54 5NH (“the
Applicant”)**

**Mr Kieran George McCrudden, Miss Abbie Debbie McCabe, 19F Clyde Drive,
Craigshill, Livingston, EH54 5LF (“the Respondent”)**

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Second Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to grant an order for eviction. The Tribunal determined to
suspend enforcement of the order until 15 January 2026.**

Background

1. By application dated 22 April 2025 the applicant seeks an order for possession relying on ground 12 (rent arrears for 3 or more consecutive months) in schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. The applicant lodged the following documents in advance of the case management discussion (“cmd”):
 - Copy tenancy agreement
 - Notice to leave with proof of service
 - Section 11 notice to local authority

- Rent statement for the duration of the tenancy
 - Pre Action Requirement correspondence
 - Written submissions
3. The first respondent, Mr McCrudden submitted the following documents in advance of the case management discussion (“cmd”)
- Written submissions
 - Statement of Claire Chapman
 - Correspondence with West Lothian Council
 - Police incident report
 - Notice to leave
 - Correspondence and text messages between the parties

Case management discussion (“cmd”) – teleconference – 27 November 2025

4. The applicant, Mr Johnston attended with his representative, Ms Fraser, Lothian Homes 4 Letting. Mr McCrudden attended on his own behalf. The Tribunal noted that papers had been served on the second respondent, Ms McCabe by Sheriff Officers letterbox delivery. Mr McCrudden stated that Ms McCabe had moved out of the property following their relationship breakdown. Mr Johnston was also aware that Ms McCabe had moved out of the property. Mr McCrudden stated that she was aware of the cmd taking place however did not seek to participate as she no longer resided in the property. He stated that they have a child together and he is in regular contact with her. In the circumstances the Tribunal was satisfied that Ms McCabe had been notified of the application and did not seek to participate in the cmd. The Tribunal proceeded with the cmd in her absence in terms of rule 29.1.
5. Mr Fraser sought an order for eviction. Mr McCrudden stated that he was not opposing the application. He stated that he had sought advice from West Lothian Council. He had been advised that assistance would be provided after an eviction order was granted. Mr McCrudden stated that he had an active homeless application with the council.
6. Mr McCrudden accepted that ground 12 applied. He had raised issues relating to the condition of the property and documents served on him in his written submissions. However, he stated that whilst he disputed the exact figure due in

terms of rent arrears he did accept that current arrears amounted to approximately £8,000. Mr McCrudden stated that he had moved into the property with Ms McCabe. She had moved out of the property in August 2022. She currently lived with her parents however Mr McCrudden does see her regularly as they have a 3 year old child. No current address was provided for McCabe. Mr McCrudden stated that there was an issue with lack of heating in the property. In relation to the high level of arrears Mr McCrudden stated that he had previously worked full time in Asda. He stated that he had not made payment towards the rent and arrears as he had not been provided with bank details to make the payments. He stated that he had been in receipt of benefits including housing costs for a period however he was again in employment. No details of his current employment were provided.

7. Mr Johnston stated that the monthly rent agreed in the tenancy agreement was £450. He reduced the rent to £425 soon after the respondents moved in as he was aware that they had financial difficulties. He referred to the rent statement that had been submitted which showed that the rent had been reduced to £350 for 6 months during the covid pandemic again, to assist the respondents. Mr Johnston stated that the current arrears figure was £9,700. Mr Johnston disputed that there were any issues with the condition of the tenancy and the provision of adequate heating that were not caused by the tenant's lifestyle.
8. Mr Johnston confirmed that he was aware that Ms McCabe had moved out of the property. He stated that Mr McCrudden had deliberately withheld paying his rent for an extended period of time and has made himself intentionally homeless. He stated that he received no notification that Mr McCrudden was unemployed or that benefits had been applied for. Mr Johnston stated that this was his sole rental property. The property had been purchased as an investment to assist with retirement planning. He stated that the large level of arrears had a significant financial impact on his overall finances due to the lost income and the ongoing expenses associated with the property.
9. The Tribunal canvassed opinion on the date of enforcement of any order. Mr McCrudden sought and extension until after the Christmas period. This was not opposed by Mr Johnston.

Findings in fact

10. Parties entered into a tenancy agreement with a commencement date of 1 June 2019.
11. Monthly rent due in terms of the agreement was £450.
12. The applicant reduced the monthly rent to £425.
13. Arrears as at 28 November 2025 amounted to a figure in excess of £8,000.
14. The first respondent has not made any payments towards the rent or arrears since August 2024.
15. The applicant's representative wrote to the respondent on 3 and 7 March 2025 regarding the rent arrears.
16. The applicant's finances have been negatively impacted by the level of arrears.
17. The first respondent resides alone in the property however his 3 year old child stays regularly.
18. The respondents have not submitted any written defences or sought to oppose an order for eviction being granted.
19. The first respondent has an active homeless application with West Lothian Council.
20. The second respondent does not reside at the property.

Reasons for the decision

21. Rule 17 (4) states:

The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

22. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

23. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

24. Ground 12 states:

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.

25. The Tribunal was satisfied on the basis of the rent accounts that had been lodged that there had been arrears of rent for a period in excess of three months. Mr Mc Crudden accepted in his evidence that arrears in excess of £8,000 existed at the date of the cmd.

26. In relation to question of reasonableness the Tribunal determined that the correspondence sent to the first respondent in March 2023 complied with the pre-action requirements. Mr McCrudden had been provided with information relating to the rent arrears and guidance on how to access assistance on a number of occasions in compliance with the pre-action requirements.

27. The Tribunal was satisfied that the arrears at the property amounted to a minimum of £8,000 as at the date of the cmd. The respondents had not lodged any information which sought to demonstrate that the arrears were in any part due to issues with benefits.
28. The Tribunal took into account the information provided by Mr Johnston. The Tribunal noted the high level of arrears, which continued to rise. The Tribunal gave significant weight to the impact of the non-payment of rent on the applicant who continued to be liable for the upkeep of the property.
29. The Tribunal took into account that the second respondent did not reside at the property.
30. The Tribunal took into account the information provided in relation to the first respondent's personal circumstances.
31. The Tribunal gave particular weight to the fact that the respondents did not seek to oppose an order for eviction being granted.
32. Taking all the foregoing circumstances into account the Tribunal determined that on balance it was reasonable to grant an order for eviction.
33. The Tribunal determined that it was appropriate to suspend enforcement of the order until 15 January 2026.

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.

M-C.Kelly

Legal Member/Chair

— **27 November 2025** _____
Date

