

Housing and Property Chamber
First-tier Tribunal for Scotland



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/24/4511

Re: Property at Flat 1, 3 Baileyfield Crescent, Edinburgh, EH15 1BW (“the Property”)

Parties:

Castle Rock Edinvar Housing Association Ltd in Association with Places for People Scotland, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Ms Ellie Hall, Flat 1, 3 Baileyfield Crescent, Edinburgh, EH15 1BW (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mrs H Barclay (Ordinary Member)

Decision (in absence of the Respondent)

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

1. This is a Rule 109 application whereby the Applicant is seeking an eviction order under ground 12. The Applicant representative lodged a copy of a tenancy agreement between the parties which commenced on 13th July 2021, pre-action correspondence, rent increase notices, rent statement showing rent arrears of £10,246.37, notice to leave and evidence of service, and section 11 notice and evidence of service.
2. By email dated 6th May 2025, the Applicant representative lodged an updated rent statement showing a balance of £14,042.85.
3. By email dated 18th June 2025, the Applicant representative lodged written representations and an updated rent statement showing a balance of £14,722.16.
4. A Case Management Discussion (“CMD”) took place by telephone conference on 19th June 2025. The Applicant was represented by Mr O'Donnell, Solicitor. The Respondent was in attendance. Mr O'Donnell asked the Tribunal to grant the order. The Respondent opposed the order. The Respondent said her

circumstances have been difficult since the suicide of her mother. The Respondent had time off work due to ill health. She was having therapy and counselling, and was on medication, which was helping her. She said she was back to work. The Respondent said she was due an inheritance which would clear the balance of arrears, but there have been difficulties with the settlement of the estate. The Respondent said a family friend was willing to lend her £10,000 at the end of July, which will be paid to the arrears. The remainder of the balance will be cleared when she received her inheritance, which she expects to be before the end of the summer. The Respondent said she had not claimed benefits when she was off work, and she was receiving statutory sick pay. The Respondent had not taken advice on her situation. Responding to questions from the Tribunal as to the impact of eviction upon her, the Respondent said it would set her back in terms of her mental health. She would have nowhere to go. The Property is her safe place. She had not been in touch with the local authority to discuss homelessness. The Respondent said she was determined to get back on track.

5. The Tribunal decided to continue the application to an evidential hearing on reasonableness. The Tribunal was particularly concerned about the impact of an eviction order upon the Respondent, given her health issues. The Tribunal expressed their concern about the high level of arrears and urged the Respondent to communicate with the Applicant in respect of her health and financial matters. The Respondent undertook to do everything she could to ensure issues were addressed and the arrears cleared.
6. The Tribunal issued a Direction dated 19th June 2025 to the Respondent in the following terms:

The Respondent is required to provide:

1. *Evidence to confirm the Respondent is due to receive a loan of £10000 before the end of July 2025, which will be paid toward her rent arrears.*
2. *Evidence from the Executor of the estate of the Respondent's late mother to indicate that the Respondent is due to receive payment from the estate, including an indication of the sum likely to be received and the estimated date of payment of this sum.*
3. *Evidence to support the Respondent's claim that her situation has been affected by her health, and that the impact of eviction upon her would be detrimental to her health.*
4. *A payment plan indicating the proposed payments towards rent and arrears by the Respondent over the next six months.*

*The said documentation should be lodged with the Chamber no later than close of business on **21 days after the date of issue of this Direction.***

7. The Respondent failed to comply with the Direction.
8. By email dated 15th September 2025, the Applicant representative lodged an updated rent statement showing arrears in the sum of £15,986.17.
9. By email dated 7th November 2025, the Applicant representative lodged an updated rent statement showing arrears in the sum of £17,430.99.
10. By email dated 27th November 2025, the Applicant representative lodged a list of witnesses and second inventory of productions.
11. By email dated 9th December 2025, the Applicant representative lodged an updated rent statement showing arrears in the sum of £18,153.40.
12. By email dated 10th December 2025, the Applicant representative lodged a third inventory of productions.
13. By email dated 10th December 2025, received by the Housing and Property Chamber at 17.25 and passed to the Members and the Applicant representative on 11th December 2025, the Respondent lodged written representations stating that she was suffering stress and anxiety due to the hearing, and would not be in attendance. The Respondent stated that she is fifteen weeks pregnant and provided photographs of her medical records. The Respondent stated that full payment would be made and she would vacate the Property within 28 days.

The Hearing

14. A hearing took place by telephone conference on 11th December 2025. The Applicant was represented by Mr O'Donnell, Solicitor. The Respondent was not in attendance.
15. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 24(1) had been satisfied in respect of the Respondent. The Tribunal considered it was appropriate to proceed with the application in the absence of the Respondent, particularly given her written representations and prior notice that she would not be attending.
16. Mr O'Donnell asked the Tribunal to grant an eviction order. The arrears are now £18,153.40. There have been arrears on the Respondent's account for over three years. The Respondent has paid around 48% of the total rent due throughout the tenancy. The Respondent has failed to comply with the Direction issued by the Tribunal. Despite promises from the Respondent in July and December 2025 that payment would be forthcoming, no payment has been made since a payment of £900 in June 2025. The Respondent has not engaged with the Applicant. The Applicant was unaware of the medical and other issues raised by the Respondent at the CMD, and of the issues raised in the Respondent's recent communication.

17. Mr O'Donnell said the Applicant is not aware of the Respondent's current circumstances or whether she has sought alternative accommodation.
18. Mr O'Donnell said this level of arrears has implications for the delivery of services by the Applicant, and can lead to an increase in rents for other tenants. It would be more valuable for the Applicant to be able to re-let the Property to a rent-paying tenant, particularly in the current housing crisis, where there is likely to be a waiting list for accommodation.
19. Mr O'Donnell pointed out that, although the Respondent has undertaken to vacate the Property within 28 days, an eviction order cannot be enforced until the 30-day appeal period has passed. There is a further 14-day period of charge thereafter.
20. Mr O'Donnell moved for expenses to be awarded to the Applicant.

Findings in Fact and Law

21.

- (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 13th July 2021 at a monthly rent of £605.
- (ii) The monthly rent has increased at regular intervals and is currently £722.41.
- (iii) The Applicant has served a Notice to Leave upon the Respondent.
- (iv) The Respondent has accrued rent arrears.
- (v) The Respondent has been in rent arrears for three or more consecutive months.
- (vi) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
- (vii) The Applicant has complied with the pre-action protocol.
- (viii) It is reasonable to grant an eviction order.

Reasons for Decision

22. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if for three or more consecutive months the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that Ground 12 has been established.

23. 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 that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the Respondent was in rent arrears as a result of a delay or failure in the payment of a relevant benefit.
24. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. The Tribunal was satisfied on the evidence before it that the Applicant has complied with the pre-action protocol.
25. In considering whether it is reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
26. The Respondent has not paid rent since June 2025. The Respondent has paid around 48% of the rent due throughout her tenancy. The arrears are substantial and rising. The Respondent has repeatedly made undertakings to pay sums towards the arrears, stating that she was to receive a loan from a friend, and an inheritance, which would clear the arrears, but no evidence to support her position was lodged following the Direction, and no payment was made. It is likely that, if no order was granted, the arrears would continue to accrue. The tenancy appears to be unsustainable.
27. The Tribunal took into account the Respondent's health issues raised at the CMD; however, the Respondent failed to comply with the Direction issued by the Tribunal, and no medical evidence to support her position was provided. The Tribunal took into account the fact that the Respondent is pregnant. The Tribunal considered that the Respondent's health and her pregnancy may be significantly impacted by the granting of an eviction order, but it was impossible to make any findings in that regard in the absence of the Respondent or any relevant representations. The Tribunal noted that the Respondent is no longer opposing the order, and it may be the case that she has alternative accommodation.
28. The Tribunal considered that the Applicant is likely to have been significantly affected by an arrear of this level. This will, undoubtedly, impact upon the services provided by the Applicant, and it is likely that the Property can be let to another rent-paying tenant. If no order is granted, the arrears will continue to rise, and the detriment to the Applicant will continue.
29. In all the circumstances, the Tribunal considered it was reasonable to grant the order sought.
30. The Tribunal did not consider it was appropriate to award expenses to the Applicant as it did not consider the Respondent to have behaved unreasonably in the conduct of the case.

Decision

31. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 13th 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.

Helen Forbes

Legal Member/Chair

11th December 2025
Date