

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/25/2307

Re: Property at 13 Ropemaker Street, Edinburgh, EH6 7GE (“the Property”)

Parties:

C-urb 6 Ltd, Link House, 2c New Mart Road, Edinburgh, EH14 1RL (“the Applicant”)

Ms Julie Foulner, 13 Ropemaker Street, Edinburgh, EH6 7GE (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr T Cain (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.

Background

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 private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 16th September 2021 with a monthly rent of £858.23, a notice to leave with evidence of service, a section 11 notice with evidence of service, pre-action requirement correspondence, and a rent statement.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by personal service by Sheriff Officer on 17th October 2025.
3. By email dated 10th November 2025, the Respondent requested an extension to the time allowed for preparing representations. The Respondent stated she had been ill and off work and would probably take advice on the matter.

4. By email dated 12th November 2025, in response to an email from the case worker requesting clarity on her previous email as to whether she was seeking additional time for representations or a postponement of the Case Management Discussion, the Respondent stated 'Both if possible.'
5. By email dated 12th November 2025, the Respondent was informed that any application for postponement must be made in accordance with Rule 28 of the Procedural Rules, explaining that evidence to support the application for postponement would be required. No further representations were received from the Respondent.
6. By email dated 12th November 2025, the Applicant representative lodged an updated rent statement showing arrears in the sum of £10,104.98, and a rechargeable repair in the sum of £77.78.

The Case Management Discussion

7. A Case Management Discussion ("CMD") took place by telephone conference on 3rd December 2025. Ms Dempster, Solicitor, was representing the Applicant. Ms Waterstone and Ms Halas were in attendance on behalf of the Applicant. The Respondent was not in attendance. The start of the CMD was delayed to allow the Respondent to attend.
8. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
9. The Applicant's representatives confirmed the Applicant is seeking an eviction order under ground 12. The arrears are now £10,104.98. There has been no recent contact by the Respondent despite several attempts to contact her by letter, email and visits. The last contact was in September 2025 following allegations that the Respondent was sub-letting a room in the Property by advertising on AirBnb. The Respondent was approached and asked to remove the advertisement, but she declined to engage with the Applicant. The Respondent has entered into payment plans in the past, which have failed. The Respondent has been paying £20 weekly towards arrears, but there have been failed direct debit payments in this regard, including recently.
10. The Tribunal was informed the Respondent has two sons living in the Property, aged 18 and 19. It is not known if they are employed currently. The Respondent has been in employment and has taken time off on sick leave in the past. There have been changes to the Respondent's employment in the past, and the rent arrangements have been adjusted to reflect that and to assist the Respondent. Universal Credit has been in payment at times. It is not known if that is still the case. The last payment of rent was in August 2025.
11. Ms Dempster said the Applicant is prevented from assisting other tenants due to the level of arrears.

12. The Applicant representatives said the Applicant will continue to try and manage the tenancy if an order is granted,

Findings in Fact and Law

13.

- (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 16th September 2021 at a monthly rent of £858.23.
- (ii) The rent has been increased at intervals throughout the tenancy and is now £1019.17 each month.
- (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

14. 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.
15. 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.
16. 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 Applicant has

complied with the pre-action protocol by sending emails and letters to the Respondent.

17. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
18. The Respondent has not paid rent since August 2025. The arrears are now substantial and rising. The Respondent did not see fit to attend the CMD or make any substantive representations to assist the Tribunal in considering reasonableness. The Tribunal took into account the information provided by the Applicant representatives and the Respondent, including the fact that the Respondent has had health issues. The Tribunal considered the fact that the Respondent requested an adjournment, however, she failed to follow up and provide the required evidence or any representations.
19. The Tribunal was unable to assess the likely effect of an eviction order upon the Respondent and her family in the absence of any substantive representations. The Respondent is making no effort to pay the rent. The Respondent's payments towards the arrears are irregular and minimal. The Tribunal considered it likely that, if no order was granted, the arrears would continue to rise. The Tribunal considered the tenancy is not sustainable
20. The Tribunal considered the Applicant organisation is suffering financially as a result of the Respondent's failure to pay the rent.
21. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend or make representations to the Tribunal to indicate why an order should not be granted, and the Respondent failed to do so. The Tribunal considered it was reasonable to grant the order sought.

Decision

22. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 6th 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.

H Forbes

3rd December 2025

Legal Member/Chair

Date