



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/2122

Re: Property at 32 Main Street, Coaltown of Wemyss, Fife, KY1 4LZ (“the Property”)

Parties:

Mr William Drysdale, 20 Wellesley Road, Buckhaven, Fife, KY8 1HT (“the Applicant”)

Mr Ritchie Stanley, 32 Main Street, Coaltown of Wemyss, Fife, KY1 4LZ (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member) and Elaine Munroe (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 be made on the basis of paragraph 12 of schedule 3 of the 2016 Act.

1. Background

- 1.1 This is an application under rule 109 of the Chamber Rules whereby the Applicant sought an eviction order in respect of the private residential tenancy between the parties. The application was conjoined with the application reference FTS/HPC/CV/25/2129. The application was accompanied by, amongst other things, copies of the notice to leave given to the Respondent and a rent statement.
- 1.2 No written representations by the Respondents had been received by the Tribunal in advance of the Case Management Discussion.

2. The Case Management Discussion

- 2.1 The Case Management Discussion took place on 17 November 2025 by teleconference. The Applicant was represented by Mr Murray of James Thomson & Son Solicitor. The Respondent did not attend and was not represented.
- 2.2 The Applicant's representative confirmed that the applications were insisted upon and wished to proceed in the Respondent's absence. Given that intimation of the applications and Case Management Discussion had been given to them by sheriff officers, the Tribunal considered it appropriate to proceed in their absence as permitted by rule 29 of the Chamber Rules.
- 2.3 The Applicant's representative confirmed that rent had not been paid by the Respondent since November 2024. At the time of lodging the application, £3150.00 was unpaid. There had been no engagement with the Respondent. The Applicant understood that he had previously been employed as a bricklayer. It was unclear if the Respondent was still employed. A request to the Department of Work & Pensions for payment of any Universal Credit in respect of housing costs to be made directly to the Applicant had been unsuccessful. The Applicant suspected that the Respondent no longer resided at the Property but his belongings remained there. He was single but his brother may have resided with him for a period. Written requests for payment proposals had been made in December 2024 and also by text message without response. There was also an issue with access to the Property which was being addressed via another application.

3. Reasons For Decision

- 3.1 The Applicant was seeking an eviction order in terms of paragraph 12 of schedule 3 of the 2016 Act due to non-payment of rent by the Respondent.
- 3.2 Paragraph 12 of schedule 3 is in the following terms:-

- (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.*

The rent statement provided by the Applicant demonstrated that the Respondents had been in arrears of rent since October 2024. They had therefore been in arrears for a period in excess of three months, both at the date of service of the notice to leave and at the Case Management Discussion.

3.3 The issue for the Tribunal was therefore one of reasonableness. Given that there were no representations made on behalf of the Respondents, the Tribunal did not consider that a hearing was required. The Tribunal had regard to:-

(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.

The Tribunal further approached the issue of reasonableness in accordance with the case of *Barclay v Hannah* 1947 SC 245 whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the application was made. There was nothing to suggest the Respondent had experienced a failure in payment of benefits to which he was entitled to. The Applicant had made efforts to contact the Respondent to discuss the arrears and come to a payment arrangement. No response had been received. Whilst there were not copies of correspondence demonstrating the prescribed information had been provided to the Respondent, the Tribunal considered that the arrears continuing to accrue together with the length of time that had passed since the last payment and lack of engagement by the Respondent weighed in favour of granting the order. There had been no explanation provided for the arrears. There were no dependents resident at the Property. The Tribunal therefore considered it reasonable to make an eviction order.

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.

Alastair Houston

Legal Member/Chair

17 November 2025
Date