



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/25/2198

Re: Property at 26 Holm Dell Place, Inverness, IV2 4GU (“the Property”)

Parties:

Mr John Graham, 23 Cedarwood Drive, Inverness, IV2 6GU (“the Applicant”)

Mr John McGuire, 26 Holm Dell Place, Inverness, IV2 4GU (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction.

Background

1. By application dated 21 May 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. The application was conjoined with application reference FTS/HPC/CV/25/2199 in terms of which the applicant sought an order for payment in respect of rent arrears.
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
- Rent increase notice dated 9 April 2023

Case management discussion (“cmd”) – teleconference – 26 November 2025

3. The applicant was represented by Ms Wooley, solicitor, Bannatyne Kirkwood France and Co. The respondent was not present or represented. The Tribunal noted that papers had been served on the respondent by Sheriff Officers on 16 October 2025. The Tribunal had been contacted by Inverness Citizens Advice Bureau on 14 November 2025 to advise that they were authorised to act on behalf of the respondent. They stated that the respondent would not submit any written representations and would not appear at the cmd. The Tribunal was satisfied that the respondent had received proper notice of the cmd and proceeded with the cmd in their absence in terms of rule 29.
4. Mr Wooley sought an order for eviction. She stated that arrears at 26 November 2025 had increased to £4994. She stated that as per the rent statements which had been lodged, the respondent had been in extensive rent arrears for a period in excess of 3 months.
5. Ms Wooley stated that the property was a 2 bedroom ground floor flat. The current monthly rent was £746. Ms Wooley stated that as far as the applicant was aware the respondent resided alone in the property and was a self-employed tattoo artist. Ms Wooley stated that the applicant had a mortgage over the property which required to be paid. The rent arrears were having a negative financial impact on the applicant. Ms Wooley stated that the applicant owned no other rented properties.

Findings in fact and law

6. Parties entered into a tenancy agreement with a commencement date of 15 March 2022.
7. Monthly rent due in terms of the agreement was £725.
8. A rent increase served on the respondent increased monthly rent to £746 from 9 April 2023.
9. Arrears as at 20 October 2025 amounted to £4248.

10. The respondent has not made any payments towards the rent or arrears since 20 October 2025. The arrears had since increased to £4994.
11. The applicant's representative wrote to the respondent on 14 June 2024 regarding the rent arrears.
12. There is an outstanding mortgage over the property.
13. The applicant owns no other rental properties.
14. The respondent resides alone in the property.
15. The respondent has not submitted any written defences or sought to oppose an order for eviction being granted.
16. The respondent sought advice from Inverness Citizens Advice Bureau in relation to the application.

Reasons for the decision

17. 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.

18. 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.

19. 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.
20. 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.

21. The Tribunal was satisfied on the basis of the rent accounts that had been lodged that the respondent had been in arrears of rent for a period in excess of three months.

22. In relation to question of reasonableness the Tribunal determined that the email correspondence sent to the respondent complied with the pre-action requirements. The respondent had been provided with information relating to the rent arrears and guidance on how to access assistance in compliance with the pre-action requirements.

23. The Tribunal was satisfied that the arrears at the property amounted to £4994 as at the date of the cmd. The respondent had not lodged any information which sought to demonstrate that the arrears were in any part due to issues with benefits.

24. The Tribunal took into account the information provided by Ms Wooley. 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 monthly mortgage payments.

25. The Tribunal took into account the information provided in relation to the respondent's personal circumstances.
26. The Tribunal gave particular weight to the fact that the respondent had not taken any steps to oppose the application or lodge a defence. The Tribunal also gave weight to the fact that the respondent had sought advice from the Citizens Advice Bureau and had decided not to attend the cmd and oppose an order being granted.
27. Taking all the foregoing circumstances into account the Tribunal determined that on balance it was reasonable to grant an order for eviction.
28. The Tribunal determined that it was appropriate to suspend enforcement of the decision until 7 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.

Mary-Claire Kelly

26 November 2025

Legal Member/Chair

Date