

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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/4027

Re: Property at 18/8 Davidson Road, Balloch, G83 8AY (“the Property”)

Parties:

The Richmond Fellowship Scotland, 3 Buchanan Gate Business Park, Cumbernauld Road, Stepps, North Lanarkshire, G33 6FB (“the Applicant”)

Mr John McDonald, 36 Perray Avenue, Dumbarton, G82 5JG (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Jane Heppenstall (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 granted against the Respondent in respect of the Property.

Background

1. This is an application for recovery of the Property. The application is dated 19 September 2025. The Applicant is seeking recovery under Ground 10 and 11, Part 3 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The application states that the Respondent is not occupying the Property and has failed to comply with conditions in the tenancy agreement.
2. A case management discussion was held on 12 November 2025. There was an issue with service and the case management discussion was continued.
3. Subsequent to the case management discussion on 12 November 2025, the Applicant’s agents submitted representations, including a letter from The Richmond Fellowship dated 9 December 2025.

Case Management Discussion 17 December 2025

4. A case management discussion was held by teleconference on 17 December 2025.
5. The Applicant was represented by Ms Lucy Dunlop, solicitor.
6. There was no appearance by the Respondent and it was noted that service had been effected on him by Sheriff Officer on 7 November 2025. This had been done at 36 Perray Avenue, Dumbarton, where he is now residing.

Preliminary Matters

7. The Legal Member confirmed the purpose of a case management discussion.
8. Ms Dunlop submitted that the tribunal had sufficient information to determine the application.

9. Documents before the tribunal

- 9.1 Private Residential Tenancy Agreement dated 3 January 2025 between the Applicant and the Respondent showing the start date of the tenancy to be 3 December 2024 and the monthly rent to be £1127.04 with additional supported accommodation costs of £566.61.
- 9.2 Copy Notice to Leave dated 31 July 2025 and evidence that it was served on 1 August 2025.
- 9.3 Copy Notice to the local authority in terms of Section 11 of The Homelessness etc. (Scotland) Act 2003 and dated 1 March 2024.
- 9.4 Letter from The Richmond Fellowship dated 19 September 2025.
- 9.5 Lease for the Property between the Applicant and West Dunbartonshire Council dated 12 June 2024.
- 9.6 Copies of records maintained by the Applicant relating to the support package provided to the Respondent.
- 9.7 Lease between West Dunbartonshire Council and the Applicant dated 12 June 2024.

10. Findings in Fact

- 10.1 The Applicant is the tenant of the Property in terms of a lease granted by West Dunbartonshire Council which permits the Applicant to utilise the Property to provide supported accommodation.
- 10.2 The Applicant and the Respondent entered into a Private Residential Agreement for the Property with the tenancy commencing on 3 December 2024.
- 10.3 The private residential tenancy agreement contains provisions that obliged the respondent to reside in the Property and engage with the support package provided by the Applicant.

10.4 The monthly rent for the Property is £1127.04 and the private residential tenancy agreement also provides for additional payments to be made in respect of a support package provided to the Respondent by the Applicant.

10.5 The Notice to Leave which was dated 31 July 2025 referred to Grounds 10 and 11 and stated that it was being relied on by the Applicant as the reason for seeking recovery of the Property.

10.6 The Notice to Leave indicated that any proceedings for eviction would not be commenced prior to 1 September 2025.

10.7 The Respondent does not reside in the Property.

10.8 The Respondent has failed to engage with the package of support provided by the Applicant.

10.9 Proceedings for eviction commenced with submission of the application dated 19 September 2025.

11. Finding in Fact and Law

11.1 The Respondent has failed to comply with terms of the private residential tenancy agreement and is not residing in the Property.

11.2 Grounds 10 and 11 of Schedule 3, Part 3 of the 2016 Act apply.

11.3 It is reasonable to grant the order of eviction.

The Law

The Private Housing (Tenancies) (Scotland) Act 2016

Section 51 First-tier Tribunal's power to issue an eviction order

(1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

Schedule 3, Part 3

Ground 10 (1) It is an eviction ground that the tenant is not occupying the let property as the tenant's home.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

(a) the let property is not being occupied as the only or principal home of—

- (i) the tenant, or*
- (ii) a person to whom a sub-tenancy of the let property has been lawfully granted,*
- (b) the property's not being so occupied is not attributable to a breach of the landlord's duties under Chapter 4 of Part 1 of the Housing (Scotland) Act 2006 and*
- (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.*

(3) In sub-paragraph (2), the reference to a sub-tenancy being lawfully granted is to be construed in accordance with section 46(3).

Ground 11 (1) It is an eviction ground that the tenant has failed to comply with an obligation under the tenancy.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

- (a) the tenant has failed to comply with a term of the tenancy, and*
- (b) the Tribunal considers it to be reasonable to issue an eviction order on account of that fact.*
- (3) The reference in sub-paragraph (2) to a term of the tenancy does not include the term under which the tenant is required to pay rent.*

Reasons

12. The tenancy was provided by the Applicant in connection with a supported care package provided to the Respondent. The Property is owned by West Dunbartonshire Council and is leased to the Applicant for the provision of housing with linked support.
13. The private residential tenancy agreement contains provisions relating to an obligation of the Respondent to engage with the support provided by the Applicant: *"It is a term of this tenancy that the Tenant undertakes to utilise the support while the agreement is in operation and, where necessary, to cooperate with its provision."*
14. Clause 6 of the private residential tenancy agreement contains an obligation of the Respondent to continue to occupy the Property.
15. It would be inappropriate because of privacy reasons for this Decision to provide details of the personal circumstances of the Respondent and his support needs.
16. Ms Dunlop directed the tribunal to the records of the Applicant in connection with non-engagement of the Respondent with the support package provided to him.

She also directed the tribunal to the Applicant's letter of 9 December 2025 which provided further information in this regard.

17. The tribunal determined that there was compelling evidence that the Respondent, in not engaging with the support package provided to him, was not complying with a term of the tenancy.
18. Ms Dunlop submitted that there was evidence that the Respondent was not residing at the Property and referred us to the records of the Applicant and its letter of 9 December 2025. She said that the documents for the case management discussion had been successfully served at the address of the Respondent's mother where he was residing.
19. The tribunal determined that the Respondent was not residing at the Property and, in not doing so, was in breach of the tenancy agreement.
20. The tribunal determined that Grounds 10 and 11 of Schedule 3, Part 3 of the 2016 Act apply.
21. Ms Dunlop submitted that it would be reasonable to grant the order of eviction. She said that the Property was not being occupied by the Respondent and that it was intended to be provided as a residence for someone in need of support. She said it was a scarce resource and that the Applicant was keen to allocate it to someone in need of the support package which it provides along with housing.

Determination

22. The tribunal considered that it had enough information to determine the application without a hearing.
23. The tribunal found that the grounds of eviction were met. In considering reasonableness, it is a matter of balance. The Respondent had not engaged with the Tribunal process but it was clear that he was not residing in the Property and had not engaged with the support package designed for him. The tribunal accepted that it is reasonable that the Respondent be evicted from the Property to allow the Applicant the opportunity of providing it to a person in need of it.

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.McAllister

**Legal Member
19 December 2025**