

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)

Chamber Ref: FTS/HPC/EV/25/2302

Re: Property at 15 Affleck Gardens, Monikie, Broughton Ferry, Dundee, DD5 3QQ (“the Property”)

Parties:

Mr Graeme MacRury, Leyswood, Kellas, By Broughton Ferry, Dundee, DD5 3PP (“the Applicant”)

Mr Joseph McComish, 15 Affleck Gardens, Monikie, Broughton Ferry, Dundee, DD5 3QQ (“the Respondent”)

Tribunal Members:

Virgil Crawford (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

BACKGROUND

1. By Lease dated 10 and 23 October 2024 the Applicant let the Property to the Respondent.
2. The start date of the Lease was 29 July 2024.
3. Rent is payable at the rate of £700.00 per calendar month.
4. Following the commencement of the lease, no rental payments were made by the Respondent.

5. Correspondence was forwarded to the Respondent in compliance with the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020
6. A Notice to Leave dated 27 January 2025 was served upon the Respondent. This Notice to Leave intimated that an eviction order may be sought in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act").
7. As at the date of service of the Notice to Leave, arrears of rent amounted to £4,200.00.
8. An application was submitted to the Tribunal on 29 May 2025. As at that date arrears of rent amounted to £8,400.00.
9. A Notice in terms of s11 of the Homelessness Etc (Scotland) Act 2003 was intimated to the Local Authority.

THE CASE MANAGEMENT DISCUSSION

10. The Applicant was represented at the Case Management Discussion by Mr Myles, Solicitor, Messrs J Myles and Co, Solicitors, Dundee. The Applicant also attended the Case Management Discussion. His partner, Miss Robertson, attended as an observer. Mr Myles, however, addressed the Tribunal on behalf of the Applicants. The Respondent did not participate in the Case Management Discussion. The Tribunal, however, was in receipt of a certificate of intimation by Sheriff Officers confirming that the proceedings had been intimated upon the Respondent. In the circumstances, the Tribunal was satisfied in terms of Rule 24 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the FTT Regs") that the respondent had received intimation of the date and time of the Case Management Discussion and considered that it was appropriate to proceed with the Case Management Discussion in the absence of the Respondent in accordance with Rule 29 of the FTT regs;
11. Mr Myles moved the Tribunal to grant an Order for eviction.
12. The Tribunal was advised that arrears of rent now amounted to £11,900.00, equating to 17 monthly rental payments.
13. The Tribunal was advised of the following:-
 - There has been no contact between the Respondent and the Applicant in relation to the tenancy nor the arrears of rent.
 - Mr Myles, the Applicants representative, assisted the Respondent by providing information to enable an application to be made for the housing

element of universal credit to be paid to the Respondent. At that time the Respondent had advised he was unemployed.

- There has been no further contact from the Respondent.
- No rental payments have been made.
- It is not known whether there has been any delay nor failure in the payment of any relevant benefit. Given the passage of time, however, it is believed by the Applicant that the Respondent may have been receiving benefits but has retained them for his own purposes.
- It is known to the Applicant that the Respondent has been on holiday on various occasions, including travelling to Greece to watch Scotland play football there recently.
- The Respondent has not requested any further assistance in connection with any application for benefits.
- From information provided by neighbours, and from the Applicant attending at the Property himself, the Property is now sparsely furnished. The Respondent appears to be sleeping on a mattress on a floor. The Applicant understands he is, quite simply, preparing to remove himself once an eviction order is granted.
- The Respondent is 60 years of age.
- It is not known if he is currently in employment.
- He was previously in employment as he was a co-worker of the Applicant. His current employment status is not known.
- There are no known health issues affecting the Respondent.
- There are no children at the Property.
- The Respondent has two adult children who visit him on occasion but they do not reside there.

14. Having regard to the significant period during which no rental payments have been made, the fact that there has been no contact by the Respondent with the Applicant, and having regard to the absence of any representations having been represented to the Tribunal nor any participation in the Case Management Discussion by the Respondent, the Tribunal concluded that it was reasonable that an Order for eviction be granted.

DECISION

The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 of Schedule 3 of said Act.

Order not to be executed prior to 12 noon on 12th 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Virgil Crawford 

5th December 2025

Legal Member/Chair

Date