

**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/25/2681**

**Re: Property at 10 Orchid Place, Carrbridge, PH23 3BF (“the Property”)**

**Parties:**

**Highland Housing Alliance, Fairways, Castle Heather, Inverness, IV2 6AA (“the Applicant”)**

**Mr John Michael Waring, 10 Orchid Place, Carrbridge, PH23 3BF (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be granted.**

**Background**

1. On 20<sup>th</sup> June 2025 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
  - i. Copy Private Residential Tenancy Agreement showing a commencement date of 1<sup>st</sup> July 2023 and a rent of £620.13 per month;
  - ii. Copy Notice to Leave dated 18<sup>th</sup> March 2025;
  - iii. Copy email dated 18<sup>th</sup> March 2025 to the Respondent serving the Notice to Leave;
  - iv. Section 11 Notice and proof of service;
  - v. Copy Rent Statement showing arrears of £3810.01 as at 1<sup>st</sup> June 2025;

- vi. Six Pre Action Requirements letters
- 3. The Application was served on the Respondent by Sheriff Officers on 10<sup>th</sup> November 2025.
- 4. On 11<sup>th</sup> December 2025 the tribunal received an email from Mr Mackenzie of Inverness CAB, who is representing the Respondent, outlining some mitigating factors on the Respondent's behalf.

### **Case Management Discussion**

- 5. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Miss Callaghan of TC Young, Solicitors. Miss Campbell and Miss Mathieson, employees of the applicant, were also on the call. The Respondent was represented by Mr Mackenzie of Inverness CAB, and he was also present on the call.
- 6. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
- 7. Miss Callaghan sought an order for eviction in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. She said that the Applicant owned the property and gave details of the tenancy agreement, the Notice to Leave and service thereof and the arrears position. She said that when the Notice to Leave was served the arrears were £2982.45, when the application was lodged they were £3810.01. (It was later agreed in the accompanying arrears case that as at 31<sup>st</sup> December 2025 the arrears were £3303.68.) She said that more than one month's rent is due and the account had been in arrears for at least three months consecutively. She said that the pre action requirements had been complied with. She said that while the Applicant has some sympathy with the Respondent's position they are entitled to payment of the rent. She said that the applicant is a not for profit mid market rent landlord. Without rent payments coming in they are unable to carry out maintenance on the housing stock and it can affect them obtaining finance to achieve their aims. She submitted that it was reasonable to grant the order.
- 8. Mr Mackenzie said that the Respondent was not opposed to the order being granted. The local authority have accepted a duty to re-house him under their homelessness responsibilities. An application for a debt moratorium has been submitted to the Accountant In Bankruptcy and it is hoped that the respondent will be able to stabilise his financial position and access all benefits to which he is entitled. He said that the Respondent is not seeking an extension of the period before which an order can be enforced.

## Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing 1<sup>st</sup> June 2023 and a rent of £620.13 per month;
- b. A Notice To Leave, dated 18<sup>th</sup> March 2025, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. The Application was served on the Respondent by Sheriff Officer on 10<sup>th</sup> November 2025;
- e. When the Notice to Leave was served the arrears were £2982.45;
- f. When the application was lodged the arrears were £3810.01;
- g. At 31<sup>st</sup> December 2025 the arrears were £3303.68
- h. The Respondent does not oppose the order being granted.

## Reasons for Decision

9. Ground 12 states as follows:

*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.*

*(5) For the purposes of this paragraph—*

*(a) references to a relevant benefit are to—*

*(i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),*

*(ii) a payment on account awarded under regulation 91 of those Regulations,*

*(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,*

*(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,*

*(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.*

*(6) Regulations under sub-paragraph (4)(b) may make provision about—*

*(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),*

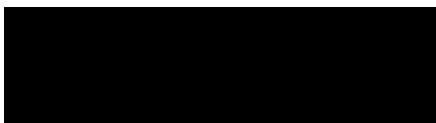
*(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,*

*(c) such other matters as the Scottish Ministers consider appropriate.*

10. The Tribunal is satisfied, by the figures given for arrears that the ground has been met. The Tribunal is also satisfied that it is reasonable to grant the eviction order by virtue of the high level of arrears and the fact that the respondent is not in opposition to the order being granted.

## **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.**



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**Legal Member/Chair**

**9<sup>th</sup> January 2026**  
**Date**