



**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/25/3303**

**Re: Property at 23 Cairnwell Place, Aberdeen, AB16 5SG (“the Property”)**

**Parties:**

**Mr Jacek Grodzki, 56 Hillhead Drive, Ellon, AB41 9WB (“the Applicant”)**

**Mr Simon Butler, 23 Cairnwell Place, Aberdeen, AB16 5SG (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (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 to grant an order for eviction.**

**Background**

1. By application dated 23 July 2025 the applicant seeks an order for eviction, relying on ground 12 (rent arrears for three or more consecutive months) and ground 14 (anti-social behaviour) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The applicant lodged the following documents with the application:
  - Copy tenancy agreement
  - Pre-action correspondence/text messages with the respondent
  - Notice to leave with proof of service
  - Rent statement
  - Emails with Police Scotland

- Emails from neighbour

3. A case management discussion was scheduled to take place via teleconference on 17 December 2025.

**Case management discussion (“cmd”) – 17 December 2025 – teleconference**

4. The applicant was represented by Ms Ziarkowska, solicitor, Lege Expertia. The respondent was not present or represented. 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.
5. Ms Ziarkowska sought an order for eviction. The application had specified 2 grounds for eviction however as the respondent had not attended to oppose the application it was agreed that the cmd would proceed to consider whether to grant an order relying on ground 12.
6. Ms Ziarkowska stated that rent arrears had stood at £3060 on 16 June 2025. A rent statement had been produced demonstrating arrears at that level when the application was submitted. She stated that the respondent had not paid any rent since June 2025. Monthly rent of £600 was due which meant that arrears had increased by a further £3,600. She stated that the respondent had not paid anything towards the rent for 9 consecutive months.
7. Ms Ziarkowska stated that the respondent had been working as a delivery driver when the tenancy had commenced. Arrears began to build up after he lost his job. Problems relating to the respondent’s conduct also began around this time. Ms Ziarkowska referred to the email correspondence that had been submitted from the respondent’s neighbour. The applicant’s written submissions referred to ongoing antisocial behaviour including loud noise and disturbances late at night and intimidating conduct towards the neighbours. Ms Ziarkowska stated that the property had been vandalised and was in a poor condition. She stated that an unknown person was occupying the property who had been allowed entry by the respondent. She stated that it was suspected that the property was being used for illegal purposes. The neighbours had called the police on numerous occasions regarding activity at the property.

8. Ms Ziarkowska stated that the respondent was in his 50s. The applicant's most recent contact with him had been after service on the notice to leave in June 2025 when he had made an abusive phone call. Ms Ziarkowska stated that the applicant had no other rental properties. The high level of arrears was having a significant impact on his financial circumstances. She stated that the applicant had also been under a severe amount of stress due to the respondent's antisocial behaviour. He received regularly contact from neighbours asking him to take action against the respondent. He was also concerned about the condition of the property.

### **Findings in fact**

9. Parties entered into a tenancy agreement with a commencement date of 26 April 2023.
10. Monthly rent due in terms of the agreement is £600.
11. Arrears as at 16 June 2025 amounted to £3,060.
12. The respondent has not made any payments towards the rent or arrears since June 2025.
13. The respondent has not made any payments towards the rent for 9 consecutive months.
14. The applicant wrote to the respondent on 9 April 2025 and 27 April 2025 regarding the outstanding arrears.
15. A valid notice to leave was served on the respondent on 12 June 2025.
16. The respondent's conduct in the property has been antisocial and has impacted his neighbours.
17. The respondent's conduct has resulted in a deterioration of the condition of the property.
18. The respondent submitted no written defences and failed to attend the cmd to oppose an order for eviction being granted.

### **Reasons for the decision**

19. 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.*

20. 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.*

21. 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.

22. 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.*

23. The Tribunal was satisfied on the basis of the rent accounts that had been lodged and Ms Ziarkowska's submissions which were not opposed that the respondent had been in arrears of rent for a period well in excess of three months.
24. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against.
25. The Tribunal took into account the oral and written submissions on behalf of the applicant.
26. In relation to question of reasonableness the Tribunal took into account the pre action correspondence and text messages that had been sent to the respondent.
27. The Tribunal gave significant weight to the fact that the respondent did not oppose an order for eviction being granted.
28. The Tribunal gave significant weight to the high level of arrears, which continued to rise and that no payment had been made by the respondent for 9 months.
29. The Tribunal also gave significant weight to the respondent's conduct which had been antisocial and was having an ongoing detrimental impact on the applicant and his neighbours. The applicant had regular complaints from the neighbours asking for action to be taken due to the impact of the respondent's conduct.
30. Taking the foregoing circumstances into account the Tribunal determined that on balance it was reasonable to grant an order for eviction.

## **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

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**Legal Member/Chair**

**17 December 2025**

**Date**