



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/25/2371

Re: Property at 157 Montrose Street, Brechin, DD9 7DQ (“the Property”)

Parties:

Mr Steven Christie, 23 Western Road, Inch, Aberdeenshire, AB52 6JR (“the Applicant”)

Ms Ashleigh Boath, Alistair Fergusson, UNKNOWN, UNKNOWN (“the Respondents”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 4th June 2025. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 17th October 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 8th December 2025 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 7th November 2025.

3. On 23rd October 2025, sheriff officers attempted service of the letter with notice of the CMD date and documentation upon the Respondents. However, on attending the Property they were told by neighbours that the Respondents no longer lived at the Property as they had moved to a new address. The sheriff officers were not able to effect service. Service By Advertisement was undertaken from 29th October 2025.

The Case Management Discussion

4. A CMD was held on 8th December 2025 at 2pm by teleconferencing. The Applicant was not present but was represented by Mrs Francis Coutts, Property Manager, Sheills Law and Estate Agents. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make any representations in advance of the CMD.
5. Mrs Coutts told the Tribunal that there has been no contact from the Respondents since she undertook her post in March 2024. She has tried to telephone on different telephone numbers, she has written by post and email. She also raised a right of access request with the Housing and Property Chamber. Entry was not able to be obtained even though the Tribunal attended to gain entry to the Property. Mrs Coutts said that she does not think that the Respondents are living in the Property. She noted that the sheriff officers were told by neighbours that Alistair Fergusson has never lived there as it was occupied by Josh Fergusson. Mrs Coutts said that both the Second Named Respondent and his father have Alistair as their first name. The Second Named Respondent is known by his middle name which is Josh. She has spoken to the neighbours who have said that the Respondents do visit the Property but do not stay there for long which indicates that they are not living there. She noted that the rent is still being paid by the DWP. She has reported to the DWP that she does not think that the Respondents are living in the Property but the rent has continued to be paid. There are no significant rent arrears arising from recent times.
6. The Applicant is the son of the late owner of the Property. The late owner had 19 properties which are all to be sold. This Property requires an EICR (Electrical Installation Condition Report). The Applicant has not been able to access the Property to have an EICR undertaken. This has in turn meant that potential purchasers have pulled out of buying the Property. To prevent delays for a potential sale and to allow the executry to progress, the Applicant took ownership of the Property. Once this has been obtained the Property will be sold.
7. The Tribunal accepted the evidence of the sheriff officers and Mrs Coutts that the Respondents do not seem to be living in the Property. The Tribunal granted an order for eviction. There were no issues of reasonableness preventing an order for eviction from being granted.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 22nd October 2020.
9. The Applicant has taken over the Property from his late father's estate. It is his intention to sell the Property once the EICR has been completed. The lack of EICR has put off potential buyers. The EICR has not been completed as access to the Property has not been obtained.
10. There has been no correspondence from the Respondents since at least March 2024.
11. The neighbours have said that there is no one living in the Property.
12. The Applicant has not been able to gain entry to undertake an EICR report.
13. There are no issues of reasonableness that prevent an order from being granted.

Decision

14. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

Gabrielle Miller

8th December 2025

Legal Member/Chair

Date