

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 Act”)

Chamber Ref: FTS/HPC/EV/25/2844

Re: Property at 26 Castings Court, Falkirk, FK2 7BA (“the Property”)

Parties:

Alexander Eastman, Alun Coulter, Wellacre Cottage, Scotia Place, Falkirk, FK2 7AJ; 4 Strathyre Place, Falkirk, FK1 5UU (“the Applicant”)

Mr Mark Winstanley, 2 Castings Court, Falkirk, FK2 7BA (“the Respondent”)

Tribunal Members:

Jim Bauld (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 the application for the order for possession should be granted.

Background

1. By application dated 2 July 2025, the applicants sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 24 July 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
3. A Case Management Discussion was set to take place on 8 January 2026 2025 and appropriate intimation of that hearing was given to both the landlords and the tenant.

The Case Management Discussion

4. Case Management Discussion (CMD) took place on via telephone case conference. The applicants were not in attendance but were represented by Ms Capaldi, solicitor, BKF, Solicitors, Glasgow. The Respondent did not take part.
5. The tribunal asked various questions of the applicant's representative with regard to the application and the grounds for eviction contained within it.
6. The applicant's representative confirmed that he wished the order sought to be granted.

Findings in Fact

7. The Applicant and the Respondent as respectively the landlord and tenant entered into a tenancy of the property which commenced on 12 October 2021
8. The tenancy was a private residential tenancy in terms of the Act.
9. The agreed monthly rental was £540.
10. On 13 May 2025 the applicants served upon the tenant a Notice to Leave as required by the Act. The Notice became effective on 13 June 2025.
11. The notice informed the tenants that the landlord wished to seek recovery of possession using the provisions of the Act.
12. The notice was correctly drafted and gave appropriate periods of notice as required by law.
13. The notice set out a ground contained within schedule 3 of the Act, namely ground 12 that the tenant had been in arrears of rent for three or more consecutive months.
14. Arrears had started to accrue from January 2025 and at the date of service of the Notice to Leave amounted to £1,360.
15. At the date of the lodging of the application arrears amounted to £1,900
16. At the date of the CMD the arrears amounted to £5,140

17. The tenants had been continuously in arrears from 12 January 2025 until the date of the CMD.

18. The basis for the order for possession was accordingly established.

Reasons for decision

19. The order for possession was sought by the landlord on a ground specified in the Act and properly narrated in the notice served upon the tenant.

20. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground.

21. The tribunal accepted the unchallenged evidence presented on behalf of the landlord with regard to the rent arrears. A rent statement was produced which set out the history of the arrears.

22. The ground for eviction under which this application was made is the ground contained in paragraph 12 of schedule 3 of the Act. The ground is that the tenant has been in arrears of rent for three or more consecutive months. When the 2016 Act was originally passed, that ground of eviction was mandatory, if the tenant was in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on the day of the hearing. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.

23. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact

24. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties


25. In this case the tribunal finds that it is reasonable to grant the order.

26. The level of arrears is high, and it is unlikely that the arrears will ever be repaid. There is no suggestion that the tenant is making any attempt to meet the rent. The landlord's representative indicates that he believes the tenant is a single man aged 46 and that he lives alone. He has no dependent children. He has failed to contact the applicants' letting agent to make any arrangement to deal with the arrears nor has he offered any explanation for the non-payment of rent. He is believed to be in full time employment.

27. The landlord has complied with the matters set out in the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. Appropriate information was provided to the tenant.
28. No explanation has been provided by the tenant regarding the arrears. The respondent has lodged no written representations with the tribunal despite being offered the opportunity to do so.
29. The tribunal was satisfied that the tenant had been in arrears for a period far in excess of three consecutive months. The ground for eviction was accordingly established and the tribunal found that it was reasonable in terms of the provisions of the 2016 Act to grant the order sought.
30. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

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.



Legal Member/Chair

8 January 2026
Date