



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/25/0670

Re: Property at Flat 1, 41 High Street, Alness, Ross-shire, IV17 0PT ("the Property")

Parties:

Mr James Watson, Mrs Lesley Watson, Croftgarry Farm, Aberdour, KY3 0RN ("the Applicant")

Mr Marc Webb, Flat 1, 41 High Street, Alness, Ross-shire, IV17 0PT ("the Respondent")

Tribunal Members:

Virgil Crawford (Legal Member) and Sara Hesp (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that

BACKGROUND

1. By Lease dated 13th September 2019 the Applicants let the Property to the Respondent.
2. The start date of the tenancy was 13th September 2019.
3. Rent is payable at the rate of £495.00 per calendar month.
4. A notice to leave dated 27th September 2024 was served upon the Respondent. The notice to leave intimated the Applicants were seeking vacant possession as they wish to sell the Property. No other ground of eviction as stated within the notice to leave.

5. Following service of the notice to leave the Respondent stopped making payment of rent.
6. The Applicants, on 17th February 2025, presented an application to the Tribunal seeking an order for eviction. The application to the Tribunal sought an eviction order under grounds 1 (landlord intends to sell the let property) and ground 12 (tenant is in arrears for 3 or more consecutive months) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).
7. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
8. Proof of the Applicants’ intention to sell was provided to the Tribunal.
9. As at the date of the application being forwarded to the Tribunal arrears of rent amounted to £2,970.00. As at the date of the case management discussion, arrears of rent amounted to £6,930.00.

THE CASE MANAGEMENT DISCUSSION

10. The Applicants were represented by Mr J Thomson of James Thomson and Son, Solicitors. The Respondent participated personally in the case management discussion.

The Applicants

11. Mr Thomson advised the Tribunal that the Applicants were seeking an order for eviction. The Tribunal intimated to Mr Thomson that, while his application sought an eviction under grounds 1 and 12 of schedule 3 of the 2016 Act, the notice to leave made reference only to ground 1. In those circumstances, the Tribunal would only be able to consider an eviction order in terms of ground 1.
12. Mr Thomson pointed out to the Tribunal that there were arrears of rent which had increased since the application was presented. He pointed out to the Tribunal that arrears of rent now amounted to £6,930.00. The Tribunal intimated that, for the purpose of the current application before the Tribunal, if there were arrears of rent, they could be taken into account in considering whether it was reasonable to grant an eviction order but, for the reasons stated, rent arrears could not form the basis of an order for eviction.

The Respondent

13. The Respondent advised the Tribunal that he was not opposed to an eviction order being granted. He was candid with the Tribunal. He advised that, following receipt of the Notice to Leave, he initially believed he would secure alternative accommodation fairly quickly. On that basis, he stopped making

payment of rent, thinking it would be for a relatively short period of time. He attended with his local authority who advised that, until an eviction order was granted, they would be unable to assist them. Thereafter, following his initial decision to withhold rent, matters "snowballed".

14. Mr Webb advised the Tribunal that, while he was technically still employed, he is absent from work on a long-term basis. He is now in receipt of universal credit. He has not, therefore, been able to commence making payment of rent again.
15. He advised the Tribunal that he, as stated, had taken active steps to secure alternative accommodation but, in the absence of an eviction order, was unable to do so. He was content for an eviction order to be granted.
16. He is 51 years of age. He resides at the Property himself although he has 4 children aged 17 years, 13 years, 10 years and 8 years. Those children reside with him for 2 weeks each month. Their mother resides nearby and the children spend the rest of their time at their mother's home.
17. While making reference to certain health issues affecting him and his ability to work at present, Mr Webb did not consider those to be relevant to the issue of reasonableness of an eviction order.

Discussion

18. Having regard to the position of the Parties, and in particular the fact Mr Webb did not oppose an order for eviction and, separately, that there are now significant arrears of rent, the Tribunal considered that it was reasonable to grant an order for eviction.
19. The Tribunal, thereafter, considered the date upon which any such order should become enforceable. Having regard to the time of year, any eviction order would become enforceable just before Christmas Day. The Tribunal did not consider it appropriate that a removing be able to be enforced at that time of year. The Tribunal also noted that Mr Webb is hoping to be allocated accommodation by his local authority. The Tribunal was aware that many local authorities will have certain departments either closed over the festive period or working with reduced staffing levels, thereby affecting the ability of the local authority to provide full assistance to persons. Having regard to such matters, the Tribunal concluded that, while granting an eviction order, the date of enforcement should be deferred until 9th January 2026.

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 1of Schedule 3 to said Act.

Order not to be executed prior to 12 noon on 9th 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.

Virgil Crawford

17 November 2025

Legal Member/Chair

Date