



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/25/3061

Re: Property at 13 Kingsview Terrace, Inverness, IV3 8TS (“the Property”)

Parties:

Mr Robert Mathieson, Ms Lois Holling, 18 Appin Drive, Stratton, Inverness, IV2 7AL; 18 Appin Drive Stratton, Inverness, IV2 7AL (“the Applicant”)

Ms Claire Welch, 13 Kingsview Terrace, Inverness, IV3 8TS (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Mary Lyden (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 15 July 2025 the applicant seeks an order for eviction, relying on ground 12 (rent arrears for three or more consecutive months) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The application was conjoined with application reference FTS/HPC/CV/25/3025 seeking an order for payment in respect of rent arrears.
3. The applicants lodged the following documents with the application:
 - Copy tenancy agreement
 - Notice to leave x 2 with proof of service
 - Correspondence between Thorntons solicitors and the respondent
 - Copy WhatsApp messages between the parties

- Rent statement
 - Mortgage statement
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. A case management discussion (“cmd”) was assigned for 7 January 2026.

Case management discussion – teleconference – 7 January 2026

5. The applicant was represented by Mr Sargison, solicitor from Thorntons. The respondent was not present or represented. The Tribunal was satisfied that the respondent had received proper notice of the cmd. Sheriff Officers had served papers by letterbox delivery on 5 November 2025. The Tribunal proceeded with the cmd in the respondent’s absence in terms of rule 29.
6. Mr Sargison sought an order for payment. He referred to an updated rent account that had been submitted which showed that arrears had increased to £12,487.00 as at 22 December 2025. Mr Sargison stated that no payment had been made for January’s rent which was due at the start of the month. Mr Sargison stated that there is an outstanding mortgage over the property. The applicants require to maintain payments towards the mortgage. The high level of rent arrears was having a negative impact on their finances. They were also negatively impacted by the stress of present process.
7. Mr Sargison stated that as far as the applicants were aware the respondent continued to reside in the property. No rental payments had been made since March 2025. Mr Sargison stated that the respondent resided in the property with her young child. When the tenancy had commenced the respondent had been in employment and paying rent herself. She later lost her employment and applied for universal credit housing costs. As arrears had built up the applicants applied for the benefits to be paid directly to them. Payments had been maintained for a number of months until March 2025 when the direct payments to the applicants had been cancelled.
8. Mr Sargison stated that an earlier notice to leave had been served on the respondent in July 2024. After discussions between the parties no further action had been taken at that stage. However, after arrears began to increase a second notice to leave was served on 23 May 2025. Mr Sargison conceded that the applicant’s had not complied with the pre-action protocol requirements for rent

arrears cases. He submitted that this did not render the application incompetent. He submitted that notwithstanding the failure to fully comply with the pre-action protocol it was reasonable to grant an order. He referred to the fact that the respondent had paid no rent at all since the application was submitted. He also referred to the previous discussion which had taken place between the parties regarding arrears and the applicant's previous willingness to allow the respondent an opportunity to address the arrears issue.

9. Mr Sargison stated that there had been no communication from the respondent for a year. He stated that the applicant believed that the respondent had sought assistance from the local authority and that an eviction order may be required for her to be provided with alternative accommodation.

Findings in fact

10. Parties entered into a tenancy agreement which commenced in November 2022.
11. Monthly rent due in terms of the agreement is £670.
12. Arrears as at 22 December 2025 amounted to £12,487.00.
13. The respondent has not made any payments towards the rent or arrears since March 2025.
14. The respondent resides with her primary school aged child.
15. The applicants have an outstanding mortgage over the property.
16. The respondent submitted no written opposition to the application and failed to attend the cmd on 7 January 2025 to object to an order for eviction being granted.
17. The applicants served a notice to leave on the respondent in July 2024.
18. The applicants attempted to resolve the issue of rent arrears with the respondent after service of the notice to leave in July 2024.
19. A second notice to leave specifying ground 12 was served on the respondent on 23 May 2025.

Reasons for the decision

20. 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.

21. 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.

22. 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.

23. 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.

24. In relation to question of reasonableness the Tribunal determined that the applicant had not fully complied with the pre-action requirements. The applicants had not provided guidance on how to access assistance to deal with their rent arrears.
25. The Tribunal was satisfied that arrears amounted to £12,437.00 as at 22 December 2025. The respondent had not lodged any information which sought to demonstrate that the arrears were in any part due to issues with benefits.
26. The Tribunal gave significant weight to the high level of arrears, which continued to rise and that no contact or payment had been made by the respondent for a considerable period of time.
27. The Tribunal took into account the respondent's personal circumstances and the fact that she resided with her young child. Had the respondent sought to oppose the application this would have been weighty factor however the Tribunal gave significant weight to the fact that the respondent had not opposed the application.
28. The Tribunal gave weight to the fact that there was an outstanding mortgage over the property for which payments required to be made on an ongoing basis. The Tribunal also gave weight to the impact that the conduct of the tenancy had on the applicants
29. 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

Legal Member/Chair

7 January 2026_____
Date