



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/EV/25/2002**

**Property at 40 Kirkton, Erskine, Renfrewshire, PA8 6EF (“the Property”)**

**Parties:**

**Mak Investments Limited, The Kelvin Partnership 505, Great Western Road, Scotland, G12 8HN (“the Applicant”)**

**Ms Laura Delaney, 40 Kirkton, Erskine, Renfrewshire, PA8 6EF (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant.**

**Background**

1. The Applicant seeks an eviction order in terms of Section 51 and Grounds 1 and 12 of schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave, rent statement, evidence of intention to sell, section 11 notice and evidence of compliance with the rent arrears pre action protocol were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 13 January 2026 at 10am and that they were required to participate. Prior to the CMD, the Applicant submitted an updated rent statement and a request to amend the related payment application (CV/25/2003) to £7403.91.

3. The CMD took place on 13 January 2026. The Applicant was represented by Ms Baxter, solicitor and Mr Robinson, a director of the company. The Respondent did not participate. The application for a payment order under Chamber reference CV/25/2003 was also discussed.

### **Summary of Discussion at CMD**

4. Ms Baxter told the Tribunal that the Respondent may not be living at the property. Housing Benefit payments stopped in October 2025 and there has been no access to the property for some time. A gas safety inspection was attempted recently, but the property appeared to be unoccupied, and the gas has been cut off. However, the Respondent has not been in contact and has not terminated the tenancy or returned the keys. As the position is not clear, the Applicant seeks an eviction order to recover possession of the property.
5. The Tribunal noted that the PRT lodged with the application is unsigned and that the paperwork indicates that the Respondent has occupied the property since 2014, previously under a short assured tenancy. Ms Baxter told the Tribunal that the property was formerly managed by a different letting agent. As a result of intervention by the Scottish Ministers, all of that agent's properties had to be re-allocated. The Applicant is not aware of the reasons for this. When the property was taken over by the current agent, they decided to issue a new tenancy agreement. They contacted the Respondent by telephone, and she agreed to the tenancy being converted to a PRT on the date specified in the agreement. She was then provided with a copy.
6. The Tribunal also noted that the rent statement appeared to start in 2021, although the new tenancy did not commence until 22 November 2022. Following discussion, Ms Baxter confirmed that the rent statement should show a balance owing of £6794.67, when deductions are made for the sums due under the previous tenancy. She confirmed that a payment order is sought for this sum.
7. In response to further questions from the Tribunal, the Applicant representatives said that there had been an email from the Respondent's email address in November 2024 which stated it was from a health professional called Ashley. It stated that the Respondent was an inpatient at Stobhill Hospital and did not have access to her phone. The Applicant made extensive enquiries and established that Respondent was not a patient at this hospital or any others in the area. Ms Baxter said that Respondent lives at the property alone. They do not know if she has contacted the Local Authority about her situation as there has been no contact from her. As the direct HB payments stopped in October, it is thought that she is no longer living there. When HB was in payment there was a monthly shortfall. At one point this was being covered by the Respondent's parents, but those payments ceased some time ago.
8. Ms Baxter told the Tribunal that the property was purchased as an investment but turned out to be a poor investment and the Applicant has decided to sell it rather than re-let. The Applicant owns 4 other properties.

## **Findings in Fact**

9. The Applicant is the owner and landlord of the property.
10. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
11. The Applicant intends to sell the property.
12. The Respondent is due to pay rent at the rate of £458.08 every four weeks.
13. The Respondent has been in arrears of rent since the beginning of the tenancy, and no payments have been made since October 2025.
14. The Respondent currently owes £6794.67 in unpaid rent.
15. The Applicant served a Notice to leave on the Respondent on 3 February 2025.
16. The Applicant has issued letters to the Respondent in compliance with the rent arrears pre action protocol.
17. The Respondent has failed to engage with the Applicant or offer any explanation for the arrears.
18. The Respondent resided at the property alone and may no longer be occupying the property.

## **Reasons for Decision**

19. The application was submitted with an unsigned PRT. The Tribunal was told that the Respondent has occupied the property since 2014, previously under a short assured tenancy agreement. Following a necessary change of agent, the tenancy was converted to a PRT on 22 November 2022 in terms of Section 75 and Schedule 5 of the 2016 Act and Section 46A of the Housing (Scotland) Act 1988.
20. The application was also submitted with a Notice to Leave dated 3 February 2025, together with a copy email to the Respondent which establishes that the Notice was served on the Respondent on that date. The Notice states that an application to the Tribunal is to be made on ground 12, rent arrears over three consecutive months and ground 1, the landlord intends to sell the let property.
21. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.

22. Section 51(1) of the 2016 Act states, “The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”
23. Ground 1 of schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states, “(1) It is an eviction ground that the landlord intends to sell the let property. (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord – (a) is entitled to sell the let property, (b) intends to sell it for market value or at least put it up for sale within 3 months of the tenant ceasing to occupy it, and (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”
24. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states “(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in 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.”
25. Sub-Paragraph (4) states, “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 Minister in regulations.” Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant’s rights in relation to eviction proceedings and how the tenant can access information and advice.
26. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicant intends to sell the property. The Tribunal is also satisfied that the Respondent currently owes £6794.67 and that she has been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Part 1 of Grounds 1 and 12 are therefore established.
27. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
- (a) The Tribunal is satisfied that the Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant provided copies of letters issued to the Respondents in compliance with the protocol.
- (b) The Tribunal is also satisfied that there is no evidence that the arrears are attributable to a delay or failure in the payment of a relevant benefit. Direct

payments of Housing Benefit were paid to the rent account from 3 March 2023 until October 2025, when these ceased. The Applicant believes that the payments ceased because the Respondent is no longer living at the property.

- (c) The HB payments did not cover the rent charge, and the Respondent made no payments toward the shortfall.
- (d) The Respondent did not participate in the CMD or notify the Tribunal if the application is opposed.
- (e) The arrears are substantial and are increasing. No payments have been made since October 2025.
- (f) The Respondent has failed to engage with the Applicant and has provided no explanation for the arrears.
- (g) The email dated 24 November 2024, allegedly from a healthcare professional, does not appear to be genuine. It is from the Respondent's own email address and provides no details of the alleged sender, other than a first name. The Applicant made enquiries which established that the information provided in the email was not accurate.

28. The Tribunal concludes that the Applicants have complied with the requirements of the 2016 Act that grounds 1 and 12 have been established. For the reasons outlined in paragraph 27, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

## **Decision**

29. The Tribunal determines that an eviction order should be granted against the Respondent.

## **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.**



**Josephine Bonnar, Legal Member**

**16 January 2025**