



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 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/25/2897

Re: Property at 19 Birch Grove, Methil, Leven, KY8 2AS (“the Property”)

Parties:

Jess and Jinx Limited, Caledonian House, Links Road, Leven, KY8 4HS (“the Applicant”)

Ms Gillian Ovenstone, 19 Birch Grove, Methil, Leven, KY8 2AS (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

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

Background

1. By application received on 4 July 2025, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Grounds 12 (rent arrears for three consecutive months) of Schedule 3 to the 2016 Act. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same, a Rent Statement and evidence regarding the ‘pre-action protocol’. An application for payment of rent arrears of £6,634.60 was submitted at the same time and was conjoined with this application. Both applications thereafter proceeded together through the Tribunal process.

2. Following initial procedure, on 27 July 2025, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. A Case Management Discussion ("CMD") was fixed for 13 January 2026. The application and details of the CMD scheduled were served personally on the Respondent by Sheriff Officer on 14 November 2025. In terms of said notification, the Respondent was given an opportunity to lodge written representations.
4. On 2 December 2025, written representations were submitted on behalf of the Respondent, confirming that she was not opposing the eviction application, or disputing the rent arrears. She has contacted Fife Council regarding obtaining social housing and intends to seek homeless accommodation when the eviction order is granted.
5. On 6 January 2026, the Applicant's representative lodged a request on behalf of the Applicant to amend the sum claimed in the payment application from £6,634.60 to £6,416.69, together with an updated rent statement. This communication was copied directly to the Respondent's representative by the Applicant's representative at the same time.

Case Management Discussion

6. The CMD took place by telephone conference call on 13 January 2026 at 10am. In attendance were Mr Adam Gardiner from Lindsays LLP, the Applicant's solicitor who was accompanied by a Ms Lind from that firm. The Respondent, Ms Gillian Ovenstone, was in attendance, together with her support worker, Ms Sneddon, and her representative from Frontline Fife, Ms Iona Watson.
7. Following introductions and introductory remarks by the Legal Member, it was confirmed with Ms Watson that the Respondent's position was still as stated in the written representations and that she was not opposed to eviction.
8. Mr Gardiner confirmed that eviction was still sought, the ground being rent arrears. He confirmed that the balance owing was £6,416.69 and that it was therefore reasonable for an order to be granted. There is no opposition from the Respondent and no dispute as to the arrears owing. Although payments are still being received towards the rent and arrears, these are not sufficient to make any significant inroads into the arrears. Mr Gardiner also urged the Tribunal not to postpone the eviction date. The Respondent is understood to have applied for social housing and he submitted that it would make no difference to how quickly she would be allocated alternative housing, whether the order was effective sooner than later. It was clear that the Respondent would not be allocated housing until a Tribunal order is granted. If the enforcement of the order was delayed, it would simply mean that the tenancy would last for longer, during which time arrears would continue to rise. He submitted that this would not be in the interests of either party.

9. Ms Watson confirmed that the Respondent was awaiting social housing and wished to move out as the tenancy has become unmanageable for her. She was in agreement with no extension being granted and the order simply specifying the usual timescale for the eviction to take place. She agreed that there was no benefit to delaying it. The Respondent confirmed that she lived at the Property with her two children, aged 15 and 18, and that she has applied to the local authority for housing.
10. The Tribunal Members adjourned briefly to discuss the application in private. On re-convening, it was confirmed that the Tribunal was satisfied that the ground for eviction was met and also that it was reasonable to grant the order in the circumstances. It was recommended that the Respondent notify the local authority as soon as possible that the eviction order has been granted today, on usual timescales, in order that her housing application could be prioritised and progressed. Everyone was thanked for their attendance and the CMD was concluded.

Findings in Fact

1. The Applicant is the current owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 5 February 2018, in respect of which the landlord was the previous owner.
3. The Applicant purchased the Property in or around February 2024, when he became the landlord.
4. The rent due in respect of the tenancy was originally £650 per calendar month but has now increased to £713.05 per calendar month.
5. There was a background of rent arrears dating back to at least February 2024 and arrears had reached over £7,000 at some points.
6. The last payment towards rent and arrears amounted to £744.18 on 5 January 2026.
7. The arrears amounted to £7,141.56 when the Notice to Leave was served in May 2025, £6,634.60 when this application was lodged, and £6,416.69 currently.
8. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by recorded post on 15 July 2025, being delivered on 16 May 2025.

9. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 15 June 2025.
10. The Tribunal Application was submitted on 4 July 2025.
11. The Respondent has remained in occupation of the Property.
12. The Respondent had been in rent arrears for three or more consecutive months when Notice to leave was served and remains in significant arrears.
13. The Applicant's agents have sought to engage with the Respondent concerning the rent arrears and have issued a communication to her in respect of the 'pre-action protocol'.
14. There is no indication that the arrears have arisen wholly or partly as a result of a failure or delay in the payment of relevant benefits.
15. The Respondent is in receipt of state benefits and is currently making a small monthly contribution towards the arrears, but the tenancy has become unmanageable for her.
16. The Respondent has applied to her local authority for social housing.
17. The Respondent lives at the Property with her two children, aged 15 and 18.
18. The Respondent was represented in the Tribunal proceedings and also had a support worker with her at the CMD.
19. The Respondent did not oppose the application.

Reasons for Decision

1. The Tribunal considered all of the background papers including the application and supporting documentation, the procedural background to the application, the further written representations lodged on behalf of the Applicant, the written representations lodged on behalf of the Respondent and to the oral representations at the CMD by, or on behalf of, both parties.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the correct period of notice had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.
3. The Tribunal considered the ground of eviction relied upon in this application, namely Ground 12, and was satisfied that all requisite elements of that ground had been met. The Tribunal was satisfied that the rent account had been

continuously in arrears for a lengthy period of time and that there were still substantial rent arrears owing, amounting currently to just under £6,500.

4. As to reasonableness, all the factors mentioned above satisfied the Tribunal that it was reasonable to grant an order in these circumstances and to do so at this stage. There was no indication that the Respondent's failure to pay rent was due to any failure or delay in payment of state benefits and that the Applicant's agent had sent her a detailed letter in terms of the 'pre-action protocol. The Respondent had representation in the Tribunal proceedings and did not wish to oppose the application. It was conceded that the tenancy had become unmanageable to her and that she wished to move into social housing which would be more affordable. She had already been in contact with the local authority and would be making a homeless application as soon as the eviction order was granted. The Tribunal noted that she had two children living with her in the Property and was encouraged to note that she had a support worker with her at the CMD and was receiving ongoing assistance from Frontline Fife and also CAB in respect of her finances and debt situation. The Tribunal accordingly determined that an order for recovery of possession of the Property could properly be granted at the CMD as, in the circumstances, there was no need for an Evidential Hearing.

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.

Nicola Weir

Legal Member/Chair

13 January 2026
Date