



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

Chamber Ref: FTS/HPC/EV/25/2820

Re: Property at 168 Dalriada Crescent, Motherwell, ML1 3XS (“the Property”)

Parties:

Sharon Lamond Properties Limited, 301, 0/1, Glasgow Harbour Terraces, Glasgow, G11 6BP (“the Applicant”)

PRG Properties, 208 Saracen Street, Glasgow, G22 5EP (“the Applicant’s Representative”)

Mr Greg Heitman, 168 Dalriada Crescent, Motherwell, ML1 3XS (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Sara Hesp (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be granted and that an eviction order be granted.

Background

1. On 1 July 2025, the Applicant’s agents submitted an application to the First-tier Tribunal for Scotland seeking an order of eviction.
2. On 2 September 2025, the application was accepted for determination by the Tribunal.
3. A case management discussion was held by audio conference on 14 January 2026.

The case management discussion

4. Ms Sharon Lamond, a director of Sharon Lamon Properties Limited was present and was represented by Ms Mairi Mitchell of PRG Properties, letting agents.
5. The Respondent was not present and the tribunal noted that the arrangements for the case management discussion had been intimated to him by Sheriff Officer on 25 November 2025.
6. The tribunal determined that, in the circumstances, it was appropriate to proceed with the case management discussion in the absence of the Respondent.
7. The Legal Member explained the purpose of a case management discussion. Ms Lamond and Ms Mitchell invited the tribunal to determine the matter without a Hearing and to issue an eviction order under Rule 101 of the Tribunal Rules on the grounds that the conditions set out in Ground 11, Part 3 of Schedule 3 of the 2016 Act have been met.
8. Ms Mitchell said that there was no other evidence to put before the Tribunal and that, in the circumstances of the Respondent's failure to attend the case management discussion, it would be appropriate to determine the application at the case management discussion.

Preliminary Matters

Notice to Leave

9. It was noted that, by email dated 11 September 2025, the Applicant's Agents had been advised that a matter arising from the content of the notice to leave would require to be dealt with at the case management discussion.
10. The Applicant had sent the Respondent a notice to leave. It specified that proceedings would not be raised prior to 27 June 2025. The notice to leave was dated 25 May 2025 and was posted on 30 May 2025 with special guaranteed next day delivery.
11. The relevant statutory provisions regarding notice to leave are contained in the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act"):

Section 54: Restriction on applying during the notice period

(1) A landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant using a copy of a notice to leave until the expiry of the relevant period in relation to that notice.

(2) The relevant period in relation to a notice to leave—

(a) begins on the day the tenant receives the notice to leave from the landlord, and

(b) expires on the day falling—

(i) 28 days after it begins if subsection (3) applies,

(ii) 84 days after it begins if subsection (3) does not apply.

(3) This subsection applies if—

(a) on the day the tenant receives the notice to leave, the tenant has been entitled to occupy the let property for not more than six months, or

(b) the only eviction ground, or grounds, stated in the notice to leave is, or are, one or more of the following—

(i) that the tenant is not occupying the let property as the tenant's home,

(ii) that the tenant has failed to comply with an obligation under the tenancy,

(iii) that the tenant has been in rent arrears for three or more consecutive months,

(iv) that the tenant has a relevant conviction,

(v) that the tenant has engaged in relevant anti-social behaviour,

(vi) that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour.

(4) The reference in subsection (1) to using a copy of a notice to leave in making an application means using it to satisfy the requirement under section 52(3).

Section 62: Meaning of notice to leave and stated eviction ground

(1) References in this Part to a notice to leave are to a notice which—

(a) is in writing,

(b) specifies the day on which the landlord under the tenancy in question expects to become entitled to make an application for an eviction order to the First-tier Tribunal,

(c) states the eviction ground, or grounds, on the basis of which the landlord proposes to seek an eviction order in the event that the tenant does not vacate the let property before the end of the day specified in accordance with paragraph (b), and

(d) fulfils any other requirements prescribed by the Scottish Ministers in regulations.

(2) In a case where two or more persons jointly are the landlord under a tenancy, references in this Part to the tenant receiving a notice to leave from the landlord are to the tenant receiving one from any of those persons.

(3) References in this Part to the eviction ground, or grounds, stated in a notice to leave are to the ground, or grounds, stated in it in accordance with subsection (1)(c).

(4) The day to be specified in accordance with subsection (1)(b) is the day falling after the day on which the notice period defined in section 54(2) will expire.

(5) For the purpose of subsection (4), it is to be assumed that the tenant will receive the notice to leave 48 hours after it is sent.

In considering the statutory provisions, the notice to leave is defective because it states that no proceedings would be commenced prior to 27 June 2025.

12. The notice to leave was sent on 30 May 2025 and, in terms of Section 62(5), it is assumed to have been received on 1 June 2025. In terms of Section 54 (2), no proceedings could be commenced until 29 June 2025. The notice received by the Respondent stated that the relevant date for commencement of proceedings was 27 June 2025. This did not comply with the provisions of Section 54(2).

13. The application was submitted to the Tribunal on 1 July 2025 and was accepted for determination on 2 September 2025.

14. The tribunal had to determine if the defect in the notice to leave is material and if any prejudice had been caused to the Respondent. Ms Mitchell said that she thought there had been a typographical error.

15. The tribunal had regard to the Upper Tribunal Decision of *Halcrow v Davies and Hunter* (UTS/AP/25/0019) where Sheriff Collins determined that the failure of a notice to leave to correctly specify, in accordance with section 62 (1) (b) of the 2016 Act, the day on which the landlord expected to become entitled to make an application for an eviction order, is not an error which materially affects the effect of the document for the purposes of section 73.

Minor errors in documents

(1) An error in the completion of a document to which this section applies does not make the document invalid unless the error materially affects the effect of the document.

(2) This section applies to—

(a) a notice under section 14(3), 16(3)(c), 22(1) or 61(1),

(b) the document by which a referral is made to a rent officer under section 24(1),

(c) the document by which an application is made to a rent officer under section 42(1), and

(d) a notice to leave (as defined by section 62(1)).

16. In the case before the tribunal, there was no prejudice caused to the Respondent by an incorrect date in the notice to leave. He had received notice to leave the Property and the application for eviction was submitted more than twenty eight days after he had received it.

17. The tribunal determined that the error in the notice to leave was not material and that it therefore could continue to determine the application.

Representations of the Respondent

18. The Respondent had submitted written representations dated 12 December 2025 which had been received on 7 January 2025.

19. The Respondent had also submitted written representations on 13 January 2026.

20. The Respondent had submitted further written representations on the morning of the case management discussion. These were not considered by the tribunal because they had been submitted so late.

21. Findings in Fact

- (i) The Applicant and the Respondent entered into a private residential tenancy agreement in respect of the Property on 6 November 2024.
- (ii) The tenancy commenced on 5 November 2024.
- (iii) The monthly rent due under the private residential tenancy is £550.
- (iv) The Respondent has denied access to the Applicant to enable her to carry out work to ensure that the Property meets the repairing standard in terms of the Housing (Scotland) Act 2006.
- (v) The Respondent has not complied with condition 19 of the Private Residential Tenancy Agreement.

22. Finding in Fact and Law

- (i) The Respondent, in preventing access to the Property, has failed to comply with an obligation under the tenancy.
- (ii) It is reasonable to grant the order of eviction.

23. Documents before Tribunal

- (i) Private residential tenancy agreement.
- (ii) Copy Notice to Leave dated 25 May 2025.
- (iii) Copy Section 11 intimation to local authority.
- (iv) Copies of correspondence between the Applicant and the Respondent and between the Applicant's Representative and the Respondent.

24. The Law

Section 51 of the 2016 Act:

First-tier Tribunal's power to issue an eviction order

(1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

Ground 11, Part 3 of Schedule 3 of the 2016 Act

Breach of Tenancy Conditions

11(1) It is an eviction ground that the tenant has failed to comply with an obligation under the tenancy.

(2) *The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*

(a) the tenant has failed to comply with a term of the tenancy, and

(b) the Tribunal considers it to be reasonable to issue an eviction order on account of that fact.

(3) The reference in sub-paragraph (2) to a term of the tenancy does not include the term under which the tenant is required to pay rent.

Applicant's position

25. Ms Mitchell referred the tribunal to the terms of the private residential tenancy agreement and, in particular to paragraph 19:

The Tenant must allow reasonable access to the Let Property for an authorised purpose where the Tenant has been given at least 48 hours' notice, or access is required urgently. Authorised purposes are carrying out work in the Let Property which the Landlord is required to or is allowed to, either by law, under the terms of this Agreement, or any other agreement between the Landlord and the Tenant; inspecting the Let Property to see if any such work is needed; and carrying out a valuation of the Let Property. The right of access also covers access by others such as a contractor or tradesman hired by the Landlord.

There is nothing to stop the Tenant and Landlord from mutually agreeing more generous rights of access if both parties want to resolve a non-urgent problem more promptly.

The Landlord has no right to use retained keys to enter the Let Property without the Tenant's permission, except in an emergency.

26. Ms Mitchell referred the tribunal to the documentation submitted with the application which, she said, demonstrated that the Respondent had failed to allow access for the Applicant to replace a central heating boiler.

27. The application states that an electrician had been denied access to carry out the necessary electrical safety inspection.

28. The application states that a gas engineer was allowed access in May 2025 to carry out the gas safety check and that he condemned the boiler and made it inoperable which left the Property with no hot water or central heating.

29. The application states that, on 28 May 2026, the gas engineer called at the Property to fit the new boiler and "the property was in the same state as before even after the gas engineer told him previously what had to be done to make it

safe for him to install the boiler.” The application states that the engineer could not get access because of “all the debris in the hall and kitchen.”

30. The application states that “as per the private residential tenancy agreement, a tenant must allow the landlord reasonable access to the let property to fulfil their duties under the repairing standard.”
31. Ms Mitchell referred to an email which she had sent the Respondent on 10 June 2025. In it she stated that the gas had been turned off because of safety issues and that that a new boiler required to be installed. It states: “...your landlord has tried to have this work done numerous times. The property needs to be clear for the work to be carried out. It is YOU who is stopping the work from being done not the landlord.”
32. Ms Mitchell referred to the Respondent’s email of 10 June 2025 which was sent in response to hers of the same date. It refers to the Applicant’s obligation to restore the gas supply with “immediate effect.” The email states that the gas engineer will be given access if the gas supply is restored immediately, “without any need of two days’ work.”
33. Ms Mitchell referred to other emails between the Respondent and her, in which she seeks to make arrangements for access and the Respondent states that he wants the gas supply to be restored but not the proposed boiler replacement.
34. Ms Mitchell referred to emails from the Respondent which she had submitted in which he refers to the Applicant’s failure to maintain the Property to the repairing standard because of the lack of heating and hot water.
35. Ms Mitchell submitted that there was sufficient information before the tribunal to support that Ground 11 had been met. Clause 19 of the tenancy agreement required the Respondent to allow reasonable access to allow work to be carried out to ensure that the Property meets the repairing standard.
36. Ms Lamond said that numerous attempts had been made to get access so that she was able to ensure that the Property met the repairing standard. She said that, as far as she knew, the Respondent was heating the Property with electric heaters. She said that the boiler was not serviceable and needed to be replaced. She said that the Respondent has prevented access for an electrician and a gas engineer. She said that, when the gas engineer had gone to the Property to install the boiler, he could not carry out the work safely because of the belongings in the Property which blocked access to him.
37. Ms Mitchell confirmed that an application for assistance with access in terms of section 28A of the Housing (Scotland) Act 2006. She said that she was waiting for a hearing to be fixed and when it was pointed out to her that these were not normally fixed for such applications, she said that she had been asked to provide further information and had not yet “gathered the emails etc together.”

Respondent's Position

Representations of 7 January 2026

38. The respondent indicates that his intention is "to fight this action on our eviction."
39. The representations, which comprise 174 pages, include the case file sent to the Respondent by the Tribunal with handwritten annotations by the Respondent which are unclear in their meaning.
40. The representations are wide ranging and include the Respondent's opposition to the installation of a combination boiler. They include references to statutory provisions which are not applicable to Scotland.
41. The representations dispute the Applicant's position that access had been denied for the replacement of the boiler or that a gas engineer had difficulties "getting from hall to kitchen and boiler."
42. Included in the representations is correspondence between the Respondent and the local authority in which an officer of the Council indicates that it is hoped that the Respondent and the Applicant will be make arrangements for the replacement of the boiler.
43. The representations state that the Respondent considers that the existing central heating boiler should not be replaced with a combination boiler but a "conventional" boiler.
44. The representations dispute the validity of the Notice to Leave.

Representations 13 January 2026

45. The Respondent submitted a number of documents from Companies House which relate to Sharon Lamond Properties Limited and documents relating to a heritable security granted by the Applicant in respect of another property. The Respondent also submitted a Decision of the Tribunal in respect of an order of payment made in favour of the Applicant in respect of another property and another respondent.

Determination of whether Ground 11 had been met

46. The terms of paragraph 19 of the private rental tenancy agreement were clear. The tribunal was satisfied from the documentation submitted by the Applicant and from the submissions made that there was work which necessarily required to be carried out. It accepted that the central heating boiler required to be replaced.
47. It was not the role of a tenant to decide what work was and was not required or the specification of a particular boiler that a landlord intended to install.
48. The tribunal was satisfied that the Respondent had been given adequate notice that access would be required and that the Respondent had denied access, not only in allowing the contractor access but also facilitating it by in clearing sufficient space in the Property for the work to be done.
49. The tribunal considered the representations of the Respondent. Those of 13 January 2026 were completely irrelevant.
50. The representations of 7 January 2026 dispute that access had been denied but the exchange of correspondence before the tribunal, some of which had been submitted by the Respondent, supported the Applicant's position in this regard.
51. The tribunal determined that Ground 11 had been met and that it required to consider if it was reasonable to grant the order of eviction.

Reasonableness

52. Ms Lamond said that the Property had belonged to her mother and that she had bought it so that her mother had funds for her care. She said that it had been purchased without a secured loan but that she had released funds from other properties to enable her to do so. Ms Lamond said that she had a portfolio of thirteen buy to let properties.
53. Ms Lamond said that she needed to carry out the work to the Property which had no heating or hot water. She said that she needed to carry out the work to ensure that the property met the repairing standard and that she complied with her statutory obligations.
54. Ms Lamond said that she has not been allowed to inspect the Property and that the Respondent has denied access to an electrician to carry out an electrical inspection. She said that she was unaware of whether the smoke and heat detectors were functioning properly.
55. In relation to the application under Section 28A of the 2006 Act, Ms Lamond said that, at one point getting access to do the work under the statutory

provisions to provide assistance with access would have been sufficient, but that she now considered it reasonable to recover the Property because of the Respondent's persistent failure to engage with her or her agents over issues of access and therefore to comply with the provisions of the private rented tenancy agreement.

56. Ms Mitchell said that, as far as she was aware, the Respondent resided in the Property with a partner and two adult children. She knew nothing more about his circumstances.

57. Ms Mitchell submitted that it would be reasonable to evict the Respondent to allow the Applicant to re-let it to a tenant who would comply with the terms of their tenancy agreement.

Reasons for Decision

58. The tribunal saw no reason for determination of the application to be continued to a Hearing. There was clear evidence that the Respondent had failed to comply with the terms of the private residential tenancy agreement relating to access.

59. The tribunal was satisfied that the Notice to Leave had been served on the Respondent and that the defect in it had not been material. The tribunal was satisfied that the appropriate notice had been served on the local authority under the Homelessness etc (Scotland) Act.

60. The tribunal required to consider whether or not the granting of an order of eviction was reasonable. It is a matter of judicial discretion and, in considering reasonableness, a balancing exercise requires to be undertaken.

61. The tribunal considered whether the application under Section 28A of the 2006 Act might make the eviction application unnecessary. Whilst it was surprising that Ms Mitchell seemed unaware of the process for such applications, because she expected a Hearing to be fixed, the tribunal, considered that it was reasonable for a landlord to have an expectation that the terms of a tenancy agreement be complied with. In this particular case, the Respondent had repeatedly refused to allow access.

62. The Respondent had engaged with the Tribunal process insofar as submitting written representations but had not attended the case management discussion and nothing was therefore known about his particular circumstances, other than what had been disclosed by Ms Mitchell. The representations submitted by him did not directly address the question of reasonableness, other than to state that he should not be evicted.

63. It was not reasonable for the Applicant to continue to be denied access. She should be able to recover the Property.

Decision

64. The tribunal determined that the application be granted and that an eviction order be made.

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.

Martin McAllister

**Martin J. McAllister
Legal Member
14 January 2026**