

Housing and Property Chamber
First-tier Tribunal for Scotland



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/25/3142

Re: Property at 8A Queen Street, Inverurie, AB51 4TP (“the Property”)

Parties:

Mr Achut Dhungana and Mrs Gwyneth Dhungana, 17 Provost's Circle, Inverurie, AB51 4TG (“the Applicants”)

Mr Max Gifford, 3 Cross Stones Steading, Ellon, AB41 8ND (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Andrew McFarlane (Ordinary (Surveyor) Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 8A Queen Street, Inverurie, AB51 4TP under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicants or others in their name may enter thereon and peaceably possess and enjoy the same.

Background

1. By application dated 18 July 2025, the Applicants’ solicitor applied to the First- tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for repossession under Rule 109 of the First-tier

Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).

2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties dated 9 December 2024, a letter to the Respondent dated 11 June 2025, a Notice to Leave dated 11 June 2025 with an email to the Respondent, a rent statement and an email dated 18 July 2025 addressed to Aberdeenshire Council with a Notice under Section 11 of the Homelessness etc.(Scotland) Act 2003.
3. On 7 August 2025, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 25 November 2025 the Tribunal provided a copy of the application and invited the Respondent to make written representations to the application by 16 December 2025. The Tribunal advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 21 January 2026. This paperwork was served on the Respondent by James B Booth, Sheriff Officer, Aberdeen at the Respondent’s new address of 3 Cross Stones Steading, Ellon, AB41 8ND and the Certificate of Intimation was received by the Tribunal administration.
5. On 10 December 2025 the Applicants’ solicitor forwarded an up to date rent statement showing arrears of £6750 and seeking to increase the sum of arrears. This was sent to the Respondent on 11 December 2025.
6. The Respondent did not lodge any written representations by 16 December 2025.

Case Management Discussion

7. The Tribunal proceeded with a CMD on 21 January 2026 by way of teleconference. Mr Doran from Raeburn Christie Clark & Wallace LLP Solicitors appeared for the Applicants. His colleague Ms Henderson was also in attendance as an observer. There was no appearance by or on behalf of the Respondent despite the CMD starting 5 minutes late to allow him plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.
8. The action was heard together with an action for payment of rent arrears under reference FTS/HPC/CV/25/3143.
9. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 9 December 2024, the letter to the Respondent dated 11 June 2025, the Notice to Leave dated 11 June 2025 with the email to the Respondent, the rent statement to December 2025 and the email

dated 18 July 2025 addressed to Aberdeenshire Council with a Notice under Section 11 of the Homelessness etc.(Scotland) Act 2003. The Tribunal considered these documents.

10. Mr Doran moved the Tribunal to grant an order of eviction. He submitted it was reasonable to do so. He submitted that the requisite Notice to Leave had been served on the Respondent and the S 11 Notice on the Local Authority. The Property was a two bedroomed property. The Respondent had no children living with him. The Property had not been adapted. The Applicants had not been advised that the Respondent was vulnerable in any way. On 17 July 2025 the Applicants were contacted by the upstairs neighbour to advise there was a leak. The Applicants instructed a plumber to attend who found water pouring into the living room. The locks were changed and a note left on the door of the Property to advise that the keys could be collected from the Applicants. The Respondent has never contacted the Applicants for the keys to the Property since then. He still has belongings in the Property. They have reached out to the Respondent about this, but without any success.
11. Further Mr Doran submitted the arrears had increased to £7425. The Respondent had now not paid rent for 11 months. He submitted that Ground 12 of Schedule 3 of the 2016 Act had been met and that it was reasonable to evict.

Reasons for Decision

12. The Tribunal considered the issues set out in the application together with the documents lodged in support. The Tribunal also considered the following legislation in its determination -
 - Private Housing (Tenancies) (Scotland) Act 2016
 - The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
13. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 12(rent arrears).
14. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.
15. In terms of Section 54 of the 2016 Act a landlord may not make an application to the Tribunal for an eviction order against a tenant until the expiry of the relevant period in relation to that Notice. The relevant period which begins on the day the tenant receives the Notice in the case of Ground 12 of Schedule 3 is 28 days.

16. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states that it proceeds on Ground 12 of schedule 3 of the 2016 Act and states the amount of arrears at Part 2 of the Notice. The Notice to Leave served on 11 June 2025 specifies the date the Applicants as landlords expect to become entitled to make an application for an eviction order namely 12 July 2025 . In terms of Section 62(4) of the 2016 Act, the Notice to Leave must specify the day falling after the day on which the notice period defined in section 54(2) will expire. In the circumstances the Tribunal is satisfied the Respondent has been given sufficient notice of 28 days. Accordingly, the Notice to Leave complies with Section 62.
17. The Tribunal noted the Respondent's arrears were increasing with no payment since February 2025. The Tribunal found that the Applicant had established a case under Ground 12. However, Ground 12 is discretionary ground of eviction. As well as being satisfied the facts have been established to support the ground, the Tribunal has to be satisfied that it is reasonable to evict.
18. The Tribunal noted the Applicants' solicitor had lodged a pre action requirement letter with the application. The Respondent had received this and the Notice to Leave but had not made any attempt to pay ongoing rent or clear the arrears. The Tribunal gave weight to the submissions that the Respondent's arrears were increasing and that no rent had been paid for 11 months. Further it appeared to the Tribunal that the Respondent had not lived in the Property since at least 17 July 2025. He was no longer using the Property as his only or principal home. The Tribunal was satisfied on the basis of the documents lodged, together with submissions made by Mr Doran, that the balance of reasonableness in this case weighted towards the Applicants.
19. The Tribunal noted that notice under Section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to Aberdeenshire Council had been served.
20. In the circumstances the Tribunal considered that in terms of Ground 12 of Schedule 3 the Respondent is in rent arrears and that it is reasonable to grant an eviction order in terms of Section 51 of the 2016 Act.

Decision

21. The Tribunal granted an Order of eviction. The decision of the Tribunal was unanimous.

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.

Shirley Evans

21 January 2026

Legal Member

Date