



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/25/2246

Re: Property at Flat 44 2 McEwan Walk, Edinburgh, EH3 8FS (“the Property”)

Parties:

Springside Opco Limited, 9 Sackville Street, London, W1S 3DG (“the Applicant”)

Mr Heber Moloney, Ms Andreina Tomasi, Flat 44 2 McEwan Walk, Edinburgh, EH3 8FS (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. On 23rd December 2024 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 22st March 2022;
 - ii. Copy Notice to Leave dated 11th October 2024;
 - iii. Copy email dated 11th October 2024 to the Respondent serving the Notice to Leave;

- iv. Section 11 Notice and proof of service;
 - v. Copy Rent Statement showing arrears of rent;
 - vi. Pre Action Requirements emails
3. The Application was served on the Respondent by Sheriff Officers on 27th November 2025.
4. On 21st January 2026 the Respondents sent a written submission to the Tribunal. They said that due to health issues they would not be attending the Case Management Discussion as they could not participate in telephone calls or video calls. They said that they had made a number of payments over the course of the tenancy and said that they are currently paying £750 per month by way of Universal Credit, which is the maximum amount they are entitled to.

Case Management Discussion

5. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Miss Mewell, General Manager of the Applicant. There was no attendance by the Respondents or any representative on their behalf.
6. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
7. Miss Mewell sought an order for eviction in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. She said that the Respondents were living in the property but were not engaging and had not made the Applicant aware of any issues they were having. She said that the Respondents are a married couple, there are no children living in the property and that the property has not been adapted in any way in relation to disability needs. She said that the last time the Respondents made a rent payment in full was in March 2024. There is no explanation as to why regular full payment stopped. She said that in the last four months payments of £750 per month have been made direct from universal Credit. However, the rent is £1854 per month, so the payment is short meaning that arrears are accumulating at the rate of £1104 per month. She accepted that some payments were made by the Respondents at the beginning of 2025 which were not shown on the rent statement submitted in July 2025. She said however that the rent account was substantially in arrears, and there was no proposal from the Respondents to address either the arrears or the shortfall each month.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing 21st March 2022;
- b. A Notice To Leave, dated 11th October 2024, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. The Application was served on the Respondent by Sheriff Officer on 27th November 2025;
- e. The Applicant complied with the Pre Action Requirements;
- f. The rent has not been paid in full since March 2024;
- g. Payments towards the rent account have been sporadic;
- h. The Respondents are receiving the housing element of universal credit in the amount of £750 per month;
- i. There is a shortfall of £1104 per month;
- j. The rent account has been arrears for three or more consecutive months;
- k. The Respondents being in arrears is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit;
- l. The Respondents declined to attend the CMD;
- m. The Respondents allege they have health conditions but did not provide any evidence to support their position;
- n. The Respondents are not meeting the ongoing rent in full;
- o. The Respondents have made no proposals to meet the arrears.

Reasons for Decision

8. Ground 12 states as follows:

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.

(5) For the purposes of this paragraph—

(a) references to a relevant benefit are to—

(i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),

(ii) a payment on account awarded under regulation 91 of those Regulations,

(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,

(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,

(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.

(6) Regulations under sub-paragraph (4)(b) may make provision about—

(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),

(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

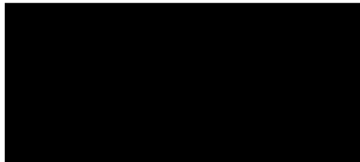
(c) such other matters as the Scottish Ministers consider appropriate.

9. With reference to the Findings In Fact the Tribunal is satisfied that the Applicant has established Ground 12, a valid ground of eviction.

10. The Tribunal now has to decide if it is reasonable to grant the eviction order. The Tribunal took in to consideration the contents of the written submission contained in the email sent by the Respondents on 21st January 2026. The Respondents allege health conditions but have not provided any evidence to support their position, nor did they attend the CMD. The Tribunal noted that the submission did not contain any proposals to make payment of the arrears, or to address the monthly shortfall. Given the length of time that the rent has been in arrears and the absence of any proposal to remedy the situation the Tribunal consider that it is reasonable to grant the order.

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.



Legal Member/Chair

Date: 23rd January 2026