



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/25/3331

Re: Property at 87 Spring Garden, City Centre, Aberdeen, AB25 1DG (“the Property”)

Parties:

Inchwood Ltd, Unity Housing Group, 195 Queensferry Road, Rosyth, Fife, KY11 2JH (“the Applicant”)

Mr James Andrews, 87 Spring Garden, City Centre, Aberdeen, AB25 1DG (“the Respondent”)

Tribunal Members: Melanie Barbour (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. An application was made under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment and an order for recovery of

possession under a private residential tenancy by the Applicant against the Respondent for the Property.

2. The application contained: -
 - a. the tenancy agreement,
 - b. the notice to leave with evidence of service
 - c. section 11 Notice with evidence of service
 - d. rent statement
 - e. emails to the tenant about rent arrears
 - f. rent increase notice email confirmation
3. The applicant submitted further correspondence to the tribunal and also the respondents on 14 January 2025. It included an updated rent statement.
4. A case management discussion took place on 27 January 2025. In attendance was the applicant's agent, Mr Livingstone from Landlord Specialist Services Scotland. Notice of the Case Management Discussion had been made by the sheriff officers on 5 December 2025. The respondent did not appear. The tribunal was prepared to proceed in their absence, given they had notice of the Case Management Discussion.

Discussion

5. The applicant's agent advised that the applicant was seeking an order for recovery of possession of the property under ground 12 (three months' rent arrears).
6. He advised that the rent arrears had been increasing since the application was made and were now £5400.
7. The agent advised that the last payment made was on 22 April 2025. The agents had tried to contact the respondent, the respondent said that the landlord was not entitled to make a rent increase; however, matters had progressed further, and they had later stopped paying all rent. The landlord's agent had tried to make contact with the respondent. They had sent information to the respondents regarding the rent arrears. There had been no

response by the respondent to address the arrears. The respondent had previously been abusive to staff of the agents. The respondent had also been difficult about allowing entry to the property for other matters. The respondent was a single male, with no dependents living with him. He was employed. There were no known benefit or health issues. Rent arrears were accruing, and there was no payment arrangement in place; accordingly, he sought an order for eviction.

8. In relation to the landlord's circumstances, they were a commercial business. They were well known in Aberdeen area. They were paying to maintain the property and not receiving any rent in return. The property was in a high demand area. It was possible that the respondent had now left the property.

Findings in Fact

9. The Tribunal found the following facts established: -
10. There existed a private residential tenancy.
11. The tenant was James Andrew.
12. The landlords were Inchwood Ltd.
13. The property was 87 Spring Garden, 1st Floor Right, Aberdeen.
14. It had commenced on 19 August 2021.
15. The tenancy stated that rent was £480 a calendar month payable in advance.
16. There had been a rent increase issued by email on 9 April 2024 effective on 19 July 2024, but implementation was delayed until 19 September 2024.
17. There was submitted a notice to leave dated 1 July 2025, stating that an application would not be made until 2 August 2025. It sought eviction under ground 12 rent arrears. It set out that the respondent had been in rent arrears for more than three consecutive months. The notice to leave had been emailed to the tenant. There was evidence of service.
18. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service.
19. On 1 July 2025 the rent arrears were £1,890.

- 20. On 14 January 2026, the rent arrears were over £5,000.
- 21. There were arrears on the rent account since at least March 2025.
- 22. The last payment to rent was made on 22 April 2025.
- 23. There was evidence that the pre-action protocol requirements had been followed.
- 24. There was no evidence of failure or delay in any benefit payment to the respondent.
- 25. The respondent had initially refused to pay for the rent increase and thereafter had begun failing to pay all other rent due. The arrears had been steadily accruing.
- 26. The respondent had failed to enter into a repayment arrangement with the landlords

Reasons for Decision

- 27. Section 51 of the 2016 Act provides the Tribunal with the power to grant an order for eviction for a private residential tenancy if it finds that one of the grounds in Schedule 3 of the Act applies.
- 28. The ground which the Applicant seeks eviction under is ground 12. It is in the following terms :-

12 Rent arrears

(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

*(2) [...]*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 [—] ³ [

- (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.] 3*
- (5) For the purposes of this paragraph— ...*

29. The applicant's agent confirmed that they sought an order for eviction based on the fact that the respondent had been in rent arrears for three or more consecutive months. When the notice to leave was served on 1 July 2025 the respondent had been in rent arrears for over three months. The arrears had started to accrue from at least March 2025. There did not appear to be any benefit issues which were causing the arrears. It appeared that the first part of ground 12 was met.
30. Given that the first part of the ground is met, the tribunal is therefore required to proceed to consider if it would be reasonable to grant the order.
31. We find it would be reasonable to grant the order for eviction; in coming to this conclusion, we took into account the following matters:-
32. The arrears were now more than £5,000.00. Arrears had been accruing since at least March 2025. The respondent had made no payments towards the rent or arrears since April 2025. There were no proposals to repay the arrears. The respondent had been abusive to staff. The respondent had made it difficult for the landlord to carry out inspections on occasion. The agents advised that the respondent may now have abandoned the property.
33. The respondent was a single male who was believed to be in employment, and there were no dependents living in the property. There were no known health issues affecting the respondent.
34. In respect of the landlords, they were a commercial enterprise. The agent advised that they were well known in the Aberdeen area. The property was in a high-demand area. The applicants were having to pay for the costs of maintaining it and were now receiving no income to pay for that maintenance.
35. The tribunal was not aware of any particular mitigation on the part of the respondent. Given all of the above, and especially that the arrears are now

over £5,000.00 and there was no contact from the tenant. We consider it would be reasonable to grant an order for eviction.

36. Accordingly, considering the papers before us and the oral submission by the applicant's agent, the tribunal was prepared to grant the order for recovery of possession, given that the first part of ground 12 was met and in all the circumstances it appeared to us to be reasonable to grant the order.

Decision

37. The Tribunal grants an order in favour of the Applicants against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Melanie Barbour

Legal Member/Chair

Date 27 January 2026

