



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/24/5732

Property : 11 James Street, Tarbolton KA5 5RX ("Property")

Parties:

Mulhern Investments Ltd, 58 Tantallon Drive, Paisley PA2 9HS ("Applicant")

Amanda Kane and Gareth Nimmo, 11 James Street, Tarbolton KA5 5RX ("Respondent")

Ayr Housing Aid Centre, 7 York Street, Ayr KA8 8AN ("Respondent's Representative")

Tribunal Members:

Joan Devine (Legal Member)

Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined to grant an order for possession of the Property.

1. The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Tenancy Agreement which commenced on 3 October 2018 ("Tenancy Agreement"); Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 23 October 2024 ("Notice to Leave") with covering email dated 23 October 2024; statement of rent arrears; correspondence indicating compliance with the pre-action requirements; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 11 December 2024. The Application was served on the Respondent by sheriff officer on 27 June 2025.
2. On 13 July 2025 the Applicant lodged an updated rent statement which indicated arrears of £2,840. On 17 July 2025 the Respondent's Representative lodged a written submission. On 25 July 2025 the Applicant lodged a response to the written submission lodged on behalf of the Respondent.

3. A CMD took place before the Tribunal on 13 August 2025 by teleconference. Reference is made to the Note of the CMD. The outcome was that the Tribunal issued a Direction and an evidential Hearing was fixed for 4 February 2026.
4. The Respondent did not lodge a response to the Direction. The Applicant lodged a response on 24 October 2025 which included an updated statement of rent arrears showing arrears of £2,990. On 22 January 2026 the Respondent's Representative emailed the Tribunal to advise that the Respondent would be vacating the Property.

Hearing on 4 February 2026

5. A Hearing took place by Webex on 4 February 2026. Vivien Mulhern of the Applicant was in attendance as was David Anderson of the Respondent's Representative. Mr Anderson told the Tribunal that the Respondent had removed from the Property on 25 January 2026 and were being housed by the local authority. He said that they had not yet handed back the keys and some belongings remained in the Property to be removed. He said that the grant of an order for possession was not opposed.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement which commenced on 3 October 2018.
2. The Notice to Leave was served by email on 23 October 2024.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. The Applicant had complied with the pre-action protocol prescribed by the Scottish Ministers.
5. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

Reasons for the Decision

6. The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may 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. In the Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months. The Tribunal considered the statement of rent arrears provided and determined that ground 12 had been established. The Tribunal had seen evidence of compliance with the pre-action requirements.

7. Having considered all of the circumstances, and in light of the lack of opposition from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

Decision

The Tribunal grants an order for possession of the Property.

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.

**Joan Devine
Legal Member**

Date : 4 February 2026