



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 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/25/3351

Re: Property at 30 Forres Drive, Glenrothes, Fife, KY6 2JU (“the Property”)

Parties:

Mr Michael Croumbie MacPherson, North Flisk, Blebo Craigs, Cupar, KY15 5UQ (“the Applicant”)

Mr Konner Holden, 30 Forres Drive, Glenrothes, Fife, KY6 2JU (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession of the property be granted.

Background

1. By application received on 6 August 2025, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Grounds 12 (rent arrears for three consecutive months) of Schedule 3 to the 2016 Act. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same, a Rent Statement and evidence regarding the ‘pre-action protocol’. An application for payment of rent arrears

was submitted at the same time and was conjoined with this application. Both applications thereafter proceeded together through the Tribunal process.

2. Following initial procedure, on 20 August 2025, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. A Case Management Discussion (“CMD”) was fixed for 4 February 2026. The application and details of the CMD scheduled were served on the Respondent by Sheriff Officer on 12 December 2025. In terms of said notification, the Respondent was given an opportunity to lodge written representations. None were lodged prior to the CMD.
4. On 16 January 2026, the Applicant’s representative lodged a request on behalf of the Applicant to increase the sum claimed in the payment application from £3,537.74 to £5,137.74, being the increased balance now owing in rent arrears, together with an updated Rent Statement in support.

Case Management Discussion

5. The CMD took place by telephone conference call on 4 February 2026 at 10am. In attendance was Ms McGowan of Innes Johnston LLP, the legal representative of the Applicant. The Tribunal delayed commencement of the CMD for 5 minutes to give the Respondent an opportunity to join late but he did not do so.
6. Following introductions and introductory remarks by the Legal Member, Ms McGowan confirmed that orders were sought in respect of both applications. She advised that she had not heard anything directly from the Respondent but that he had emailed the Applicant’s letting agent on 1 February 2026, suggesting that he would pay rent from next month and would also pay an additional £150 per month towards the arrears. The letting agent had sought instructions from the Applicant regarding this but it was considered an unacceptable proposal, given the background to matters and the number of payment proposals put forward by the Respondent previously, which had not been adhered to. It would also take 31 months for the arrears to be paid off at that rate. The Applicant’s current and previous letting agents had been pursuing the rent arrears for several years. The Applicant is 77 years old, retired and relies on the rental income. The situation has caused him a lot of stress. There has been no real explanation put forward by the Respondent for the arrears. It appeared from his email communications with the letting agents that he was still working. He is understood to live alone and to be in his thirties or forties. He had, at one point, stated that the rental due date of the 13th of the month did not suit him. The Applicant’s letting agents informed him that he could make the payments on a different day of the month, but this made no difference.
7. Ms McGowan referred to the updated Rent Statement lodged and their request to increase the sum sought in the payment action to £5,137.74. The

Respondent has never disputed the arrears and has not attended the CMD to dispute the amount sought, to make a payment proposal or to oppose the eviction. The last payment made to the rent account was £250 on 14 November 2025. The payments have been erratic for several years and the rent arrears owing are significant. This is impacting on the Applicant, both in terms of ongoing stress, and financially. He relies on the rental income to fund his retirement. He has two other properties that he lets out but is not a commercial landlord. There has been no indication from the Respondent that he is no longer working or anything to suggest that he is in receipt of state benefits. The Applicant's current letting agents have frequently contacted the Respondent regarding the arrears and the Respondent has therefore had many opportunities to address the situation and resolve the matter, which he has failed to do. Reference was also made to the written representations on behalf of the Applicant concerning other breaches of the tenancy conditions by the Applicant. The previous letting agent had not managed to get access to the Property for purposes of inspection for some time and the current letting agents have also tried, to no avail. Inspections were scheduled for June 2025 and December 2025 but the Respondent did not allow entry. Previously, he had pulled out of arrangements at the last minute. The interior of the Property has not therefore been seen for some time. The letting agents took photographs of the exterior on one of their visits and it could be seen that the garden was in a state of disarray. In all of the circumstances, Ms McGowan submitted that it was reasonable for the Tribunal to grant the eviction order sought.

8. The Tribunal Members conferred on the matter and, following consideration, confirmed that the Tribunal was satisfied that the eviction application was in order and that it was reasonable for the order sought to be granted. Ms McGowan was thanked for her attendance and the CMD was concluded.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 13 July 2029.
3. The rent due in respect of the tenancy was £490 per calendar month.
4. There was a background of rent arrears throughout the tenancy with many monthly payments being missed altogether, late or only partial rent payments made.
5. The last payment towards rent amounted to £250 on 14 November 2025.
6. Arrears amounted to £3,537.74 when this application was lodged in August 2025 and now amount to £5,137.74.

7. The Applicant's previous and current letting agents have sought to engage with the Respondent concerning the rent arrears throughout the tenancy and issued numerous communications to him, including in respect of the 'pre-action protocol'.
8. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by email on 9 April 2025 and by Sheriff Officer on 10 April 2025.
9. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 10 May 2025.
10. The Tribunal Application was submitted on 6 August 2025.
11. The Respondent remains in occupation of the Property.
12. The Respondent has been called upon to make payment of the rental arrears or enter into a satisfactory payment arrangement but has failed to do so.
13. The Respondent has been in rent arrears for three or more consecutive months.
14. There is no indication that the arrears have arisen wholly or partly as a result of a failure or delay in the payment of relevant benefits.
15. The Respondent did not lodge any written representations with the Tribunal or attend the CMD.
16. The Respondent did not lodge any written representations with the Tribunal nor attend the CMD to oppose the application.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, the procedural background to the application, the further written representations lodged on behalf of the Applicant recently and to the oral representations at the CMD by Ms McGowan on behalf of the Applicant.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the correct period of notice had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.
3. The Tribunal considered the ground of eviction relied upon in this application, namely Ground 12, and was satisfied that all requisite elements of that ground had been met. Ground 12 is as follows:-

“Rent arrears

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.”

The Tribunal was satisfied that there were now substantial rent arrears, amounting to in excess of £5,000 and that the rent had been continuously in arrears for a lengthy period of time. The rent had been in arrears for a period exceeding three consecutive months when notice was served and remains so.

4. As to reasonableness, all the factors mentioned above satisfied the Tribunal that it was also reasonable to grant an order in these circumstances, and to do so at this stage. There was no indication that the Respondent's failure to pay rent was due to any failure/delay in payment of state benefits and it was clear from the extensive 'pre-action protocol' documentation lodged, and the oral submissions of Ms McGowan that the Applicant's agents had sought to communicate regularly with the Respondent regarding the rent arrears

throughout the tenancy. The Respondent had not engaged properly with regard to the arrears and had failed to adhere to payment offers he had made. Payments had been very erratic and the Applicant could, understandably, not rely on receiving regular rental income from the Respondent. The Respondent had also failed to cooperate as regards allowing access to the Applicant's letting agents, for purposes of inspection, and it was apparent from the photographs lodged with the Tribunal that the exterior of the Property was not being properly looked after by him. The Respondent had not entered into the Tribunal process and the Tribunal therefore had no material before it either to contradict the Applicant's position nor to advance any reasonableness arguments on behalf of the Respondent. The Tribunal accordingly determined that an order for recovery of possession of the Property could properly be granted at the CMD as, in the circumstances, there was no need for an Evidential Hearing.

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.

Nicola Weir

Legal Member/Chair

4 February 2026
Date