



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 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 (Rules of Procedure) Regulations 2017 (the 2017 Rules)

Chamber Ref: FTS/HPC/EV/25/2871

Re: Property at Mhor Lodge, Portencross, KA23 9PZ (the Property)

Parties:

Ms Mary Jack, Ardneil Farm, Portencross, Portencross, CO Acre Lettings Ltd, KA23 9PZ (the Applicant)

Mr Glen Currin and Mrs Diana Currin, Mhor Lodge, Portencross, KA23 9PZ (the Respondents)

Tribunal Members:

Ms Susanne L. M. Tanner KC (Legal Member)

Ms Melanie Booth (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal):

(1)(i) was satisfied that Ground 12(1) in Schedule 3, Part 3 to the 2016 Act was established by the Applicant, in that for three or more consecutive months the Respondent had been in arrears of rent; and (ii) was satisfied that it was reasonable on account of that fact to issue an eviction order; and

(2)(i) was satisfied that Ground 5 in Schedule 3, Part 3 to the 2016 Act was established by the Applicant, in that a member of the landlord's family intends to live in the let Property; and (ii) the tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact; and

(3) made an order for eviction in terms of Section 51 of the 2016 Act.

The decision of the tribunal was unanimous.

Statement of Reasons

Procedural Background

1. On 18 November 2025, the Applicant's Representative made an application to the tribunal in terms of 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 (Rules of Procedure) Regulations 2017 (the 2017 Rules).
2. The Applicant seeks the Respondents' eviction from the Property in terms of Section 51 of the 2016 Act under Grounds 5, and 12 of Schedule 3 to the 2016 Act; that a member of the landlord's family intends to live in the let Property; and that the tenant has been in arrears or rent for three or more consecutive months (ground 12 of Schedule 3).
3. The Applicant's Representative also made a joined application seeking a payment order for rent arrears (CV/25/4883).
4. The Applicant provided the following documents in support of the Application:
 - 4.1. Private Residential Tenancy Agreement;
 - 4.2. Notice to Leave;
 - 4.3. Copy of Section 11 notice sent to the local authority and proof of delivery; and
 - 4.4. Rent statement.
5. The tribunal's administration obtained a copy of the title deeds for the Property which show that the Applicant has been the registered proprietor since 15 April 1997.
6. The tribunal confirmed that the Applicant is the registered landlord with Landlord Registration Scotland.
7. The Application was accepted for determination by the tribunal. A Case Management Discussion (CMD) teleconference was fixed for 13 February 2026 at 1000h in this and the joined civil application (CV/25/4883).
8. The tribunal sent letters of notification to all parties dated 18 December 2025 with the date, time and arrangements for joining the CMD in relation to the Application. The Respondents were invited to make written representations in response to the Application by 8 January 2026. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing an eviction order. The parties were also advised that if they do not attend the CMD this would not stop a decision or order

being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair.

9. Service of the Application paperwork and notice of the CMD on the Respondents at the Property was by Sheriff Officers on 22 December 2025.
10. The Respondents did not submit any representations in the specified time period. The Respondents did not make any contact with the tribunal.

CMD: 13 February 2026, 1000h, Teleconference

11. Ms Bell attended from the Applicant's representative.
12. The Respondents did not attend. The tribunal was satisfied that the requirements of Rule 24(1) regarding the giving of notice of a hearing have been duly complied with and proceeded with the application upon the representations of the party present, in term of Rule 29 of the 2017 Rules.

Applicant's submissions

13. Ms Bell moved for an eviction order to be made on the basis of Grounds 5 and 12, namely that a family member of the Applicant intends to live in the Property and the Respondents have been in arrears of rent for three consecutive months.
14. Ms Bell referred to the rent statement dated 7 August 2025 which showed rent arrears of £4800.00 as at 21 July 2025. She stated that no rent has been paid by the Respondents since 1 July 2025, when £200.00 was paid. Prior to that a payment of £400.00 was made on 8 May 2025. Both of those payments were set against the oldest rent arrears from 22 March 2025 and are shown on the rent statement in the line with the due date of 22 March 2025. Since July 2025, rent arrears have continued to accrue for another six months at £800.00 per calendar month. Ms Bell stated that the current arrears as at 13 February 2026 are £8600.00. She lodged an updated rent statement during the CMD (in this case and the joined civil application CV/25/4883).
15. Ms Bell referred to the affidavit of the Applicant sworn on 12 August 2025 in which the Applicant has given evidence that she regards and treats Miss Eilish Jack (her niece) as a daughter and that both she and Miss Jack intend that Ms Jack will move into the Property once there is vacant possession.

16. Ms Bell said that she has attempted to keep communication going with the Respondents. The last time she spoke to Mr Currin was in around December 2025. She attempted to discuss rent arrears. She told him that they had been informed that Universal Credit could not make direct payments because the Respondents do not qualify for the housing component due to earnings from employment. Mr Currin said that he could not afford to pay rent. He said that he intended to cash in a private pension and intended to make payment of some arrears. He told her that they had taken advice and that they intend to stay in the Property until an eviction order is made. Ms Bell said that no payments have been made since the payment referred to in July 2025.

17. Ms Bell said that she thinks that the Respondents are in their 60s. She said that they live in the Property with one of their parents. It is a four bedroomed property. It needs renovation work to be carried out. It has not been adapted for disabilities for the Respondents or their family member. There are no children living in the Property. Ms Bell said that the Applicant lives in the same small hamlet and that the Respondents are refusing them access to the Property for inspections and have been difficult to deal with.

18. The tribunal makes the following findings-in-fact:

- 18.1. The Applicant is the proprietor of the Property.
- 18.2. The Respondents have lived in the Property under consecutive private residential tenancy agreements since 22 September 2020.
- 18.3. A new private residential tenancy agreement was entered into between the Applicant and the Respondents for the Property which began on 31 March 2025.
- 18.4. Rent is payable at the rate of £800.00 per calendar month in advance from the start of the tenancy on 22nd of each month.
- 18.5. On 1 April 2025, a Notice to Leave containing grounds 5 and 12 of Schedule 3 to the 2016 Act was served on the Respondents.
- 18.6. As at 1 April 2025, the rent arrears were £1200.00.
- 18.7. The Applicant has given the Respondents at least 28 days' notice that she requires possession.

- 18.8. As at the date of the Application on 18 November 2025, the rent arrears were £6,200.
- 18.9. The rent arrears as at 13 February 2025 are £8600.00.
- 18.10. As at the date of service of the Notice to Leave, at the date of Application on 18 November 2025 and as at 13 February 2026, there have been rent arrears for more than three consecutive months.
- 18.11. The Applicant's family member, Eilidh Fiona Jack, a niece, whom the Applicant treats as a daughter, intends to live in the Property.
- 18.12. The Respondents continue to reside in the Property.
- 18.13. The rent arrears are not a consequence of delay or failure in payment to the Respondents of relevant benefits.
- 18.14. The Respondents have not opposed the application for eviction.
- 18.15. The Respondents intend to stay in the Property until an eviction order is made.

Discussion

19. The order for eviction is sought in terms of Section 51 and paragraphs 5 and 12(2) of Schedule 3 to the 2016 Act. The tribunal is satisfied that the facts required in paragraph 5 and 12(2) of Schedule 3 to the 2016 Act have been established.
20. In relation to reasonableness, reference is made to the tribunal's findings in fact. The Respondents have not opposed the application for eviction. They have not produced any defence. They have had the opportunity to obtain legal, and/or housing advice and it appears from what they have told the Applicant's Representative that they have taken advice and that they intend to stay in the Property until an eviction order is made. There is no evidence that they are on any relevant benefits or that there is any other reason why it would not be reasonable to evict them from the Property. The tribunal was satisfied that it was reasonable to evict the Respondents on both grounds, or either ground, in the circumstances of the case.

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.

Susanne Tanner KC

13 February 2026

**Ms. Susanne L. M. Tanner K.C.
Legal Member/Chair**