



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/3306

Re: Property at 107 Upper Craigour, Liberton, Edinburgh, EH17 7SE (“the Property”)

Parties:

Christine Toase, Drumlea, Perth Road, Abernethy, Perth, PH2 9LW (“the Applicant”)

Mohammed Anwar, 107 Upper Craigour, Liberton, Edinburgh, EH17 7SE (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Ms A Moore (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. This is a Rule 109 application whereby the Applicant is seeking an eviction order under ground 12. The Applicant representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 14th August 2019 at a monthly rent of £695, a notice to leave with evidence of service, a section 11 notice with evidence of service, pre-action requirement correspondence and a rent statement.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officer on 3rd March 2026.
3. By email dated 17th February 2026, the Applicant representative lodged written representations on reasonableness and an updated rent statement showing arrears in the sum of £12,510.

The Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference on 17th March 2026. Mr Gray was in attendance on behalf of the Applicant. The Respondent was not in attendance. The start of the CMD was delayed to allow the Respondent to attend. The Respondent did not attend.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
6. Mr Gray said the Applicant is seeking an order. No payment of rent has been made since 13th December 2024. The arrears are now £13,205. The Respondent has previously made offers to pay, but these have come to nothing. There has been no genuine engagement by the Respondent.
7. Mr Gray referred to his representations on reasonableness. Responding to questions from the Tribunal, Mr Gray said there was no further information regarding the Respondent’s hospital admission in early 2025. The Respondent is believed to live alone.
8. Mr Gray confirmed the Applicant is a single parent on a modest wage. She relies upon the income from the Property, which was purchased by her late husband, to support her children.

Findings in Fact and Law

9.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 14th August 2019 at a monthly rent of £695.
 - (ii) The Applicant has served a Notice to Leave upon the Respondent.
 - (iii) The Respondent has accrued rent arrears.
 - (iv) The Respondent has been in rent arrears for three or more consecutive months.
 - (v) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
 - (vi) The Applicant has complied with the pre-action protocol.
 - (vii) It is reasonable to grant an eviction order.

Reasons for Decision

10. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if for three or more consecutive months the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that Ground 12 has been established.
11. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the Respondent was in rent arrears as a result of a delay or failure in the payment of a relevant benefit.
12. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. The Tribunal was satisfied on the evidence before it that the Applicant has complied with the pre-action protocol.
13. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
14. The Respondent has not paid rent since December 2024. The arrears are now substantial and rising. The Respondent did not see fit to attend the CMD or make any representations to assist the Tribunal in considering reasonableness. The Tribunal took into account the information provided by the Applicant representative that the Respondent has previously been in employment with no evidence that he is in receipt of benefits. The Tribunal took into account that the Respondent is believed to live alone, and that the Applicant is not aware of any disability or vulnerability on the part of the Respondent that should be taken into account by the Tribunal. The Tribunal was unable to assess the likely effect of an eviction order upon the Respondent in the absence of any representations. The Respondent has disengaged and is making no effort to pay the rent or address the arrears. He has failed to address the arrears over a lengthy period despite the efforts of the Applicant, who has attempted to contact the Respondent regarding the arrears, and who has agreed to payment arrangements that have not come to fruition. The Tribunal considered it likely that, if no order was granted, the arrears would continue to rise. The Tribunal considered the tenancy is not sustainable.
15. The Tribunal took into account the information provided regarding the Applicant's circumstances. The Applicant continues to have outgoings in respect of management of the Property which must be paid notwithstanding the lack of rent. It is not reasonable to expect the Applicant to continue to do this with no income from the Property. The Applicant relies upon the income from the Property to support her family. The Tribunal considered the Applicant

is suffering financially and personally as a result of the Respondent's failure to pay the rent and address the arrears. If no order was granted, it is likely the Applicant and her family would suffer further financially and personally.

16. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend or make representations to the Tribunal to indicate why an order should not be granted, and the Respondent failed to do so. The Tribunal considered it was reasonable to grant the order sought.

Decision

17. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 20th April 2026.

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.

H Forbes

Legal Member/Chair

17th March 2026
Date