



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/25/2622

Re: Property at 49 Millgate Loan, Arbroath, DD11 1PG (“the Property”)

Parties:

Mr Gavin Murray, Mrs Joyce Murray, 2 John Allan Place, Arbroath, DD11 4GT; 40 Patrick Allan Fraser Street, Arbroath, DD11 2LX (“the Applicant”)

Mr Lorand Lezsak, 49 Millgate Loan, Arbroath, DD11 1PG (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Sandra Brydon (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. Two applications were made under Rule 111 and 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 applications 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. letters to the tenant about rent arrears

3. A case management discussion took place on 9 March 2026. In attendance was the applicant. Notice of the Case Management Discussion had been made by the sheriff officers. The respondent did not appear. The tribunal was prepared to proceed in their absence, given they had notice of the Case Management Discussion.

Discussion

4. The applicant advised that he sought an eviction order under ground 12 - 3 months' rent arrears and an order for payment of £8,100. There were at least 3 months' rent arrears as at the date of the notice to leave being served: at that date, the arrears were £4,950. The notice to leave was served on 10 May 2025, and it had expired on 11 June 2025. The current situation as of March 2026 was that arrears were now £10,200.

5. The last payment was in February 2025. The applicant had sent emails and undertaken property visits to speak to the Respondent about the rent and the arrears. There had been a history of arrears. In September 2021, the respondent had fallen behind in paying his rent; he had then sold property in his native country and got the arrears down to about £1,000 in 2024. He then began falling behind again, and as of March 2025, the applicant was having difficulty getting a hold of the respondent; he did not respond to emails or texts. The applicant had arranged a couple of property visits to make sure he was ok. The respondent told him during the last visit around August 2025 that he could not pay, and he was making no offer to pay the rent or the arrears. The applicant was resigned to going down the

eviction route to get the property back. The respondent said he had problems applying for work. The applicant thought that the respondent had applied for benefits as he had asked the applicant for advice previously, but if he was in receipt of them, he was not paying them towards his rent. The applicant advised that the respondent lives in the property himself, and he is in his early 40s.

6. The applicant advised that the property is owned by himself and his mother. This is the only property they rent out. It has a mortgage over it, and it has been very stressful for them to pay the mortgage when there was no rent being paid. The applicant advised that he was made redundant in June last year, which increased the stress. The mortgage for the property was on a standard variable rate, and the interest was 6%. It did not provide a massive income. His mother, who is a pensioner, was having to pay the mortgage using her savings.
7. The applicant also sought a payment order for £8,100.

Findings in Fact

8. The Tribunal found the following facts established: -
9. There existed a private residential tenancy.
10. The tenant was Lorand Lezsak.
11. The landlord was Gavin Murray and Joyce Murray.
12. The property was 49 Millgate Loan, Arbroath.
13. It had commenced on 15 June 2020.
14. The tenancy stated that rent was £525 a calendar month payable in advance.
15. A notice to leave was submitted dated 10 May 2025, stating that an application would not be made until 11 June 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.

16. 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.
17. On 10 May 2025, the rent arrears were £4,950.00.
18. As of 9 March 2026, the arrears were £10,200.
19. There were arrears on the rent account since at least September 2021.
20. The last payment to rent was made in February 2025.
21. There was evidence that the pre-action protocol requirements had been followed.
22. There was no evidence of failure or delay in any benefit payment to the respondent.
23. The respondent had regularly failed to pay their rent and arrears. The arrears had been steadily accruing.
24. The respondent had failed to enter into a repayment arrangement with the landlords.
25. There was a mortgage over the property, and the applicant was using her savings to pay the mortgage, as there was no rent being paid.

Reasons for Decision

26. 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.
27. The ground which the Applicant seeks eviction 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 subparagraph (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— ...

28. The applicant 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 10 May 2025, the arrears were £4,950. The respondent had been in rent arrears for well over three months. The arrears had started to accrue in September 2021. 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.

29. 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. We find it would be reasonable to grant the order for eviction. In coming to this conclusion, we took into account the following matters:-

30. Matters in support of granting the order were as follows:- The arrears were now £10,200.00. Arrears had been accruing since around September 2021. The respondent had made no payments towards the rent or arrears since February 2025. There were no proposals to repay the arrears. The landlord had attempted to engage with the respondent and provided advice to them about where to get help. These efforts had not been successful. The arrears were significant, and the landlord relied on the rental to pay for the mortgage on the property. The applicant had to use her savings to meet

the mortgage repayments. The female applicant was retired. The male applicant had been made redundant. The ongoing non-payment of rent and arrears was causing stress to the applicants and financial detriment. We were not aware of mitigation in favour of the respondent. We consider it would be reasonable to grant an order for eviction.

31. Accordingly, considering the papers before us and the oral submission by the applicant, 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

32. The Tribunal grants an order in favour of the Applicants against the Respondents 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.

Melanie Barbour

Legal Member/Chair

Date 9 March 2026