



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/25/3541

Re: Property at 16/1 Gladstone Street, Hawick, TD9 0HX (“the Property”)

Parties:

Mrs Maureen Denny, Mr Richard Denny, Snails, Old Bank, Prickwillow, Ely, Cambs, CB7 4UT (“the Applicant”)

Mr Nathan Cameron-Hameed, 16/1 Gladstone Street, Hawick, TD9 0HX (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Nicholas Allan (Ordinary Member)

Decision

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

Background

1. On 18th August 2025 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 2nd September 2024 and a rent of £375 per month;
 - ii. Copy Notice to Leave dated 13th June 2025;
 - iii. Copy Sheriff Officer certificate of citation, dated 18th June 2025, serving the Notice to Leave;
 - iv. Section 11 Notice and proof of service;

- v. Copy Rent Statement showing arrears of £3750 as at 2nd August 2025;
 - vi. Pre Action Requirements emails
3. The Application was served on the Respondent by Sheriff Officers on 12th January 2026.
 4. On 11th February 2026 the Applicants' solicitor sent an email to the Tribunal with an updated rent statement showing an outstanding balance of £6000 at 2nd February 2026.

Case Management Discussion

5. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Miss Turnbull of Bannerman and Burke, Solicitors. The Respondent joined the call and represented himself.
6. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
7. Miss Turnbull sought an order for eviction in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. She said that the Respondent had not paid any rent since 2nd October 2024 and that, as per the rent statement recently lodged, the arrears are now in the amount of £6000.
8. The Respondent said that he had withheld rent as repairs were required, none of the windows in the property were windtight. He had brought this to the attention of the Applicants, he felt that they did not listen to him or take his concerns on board. He thought his statutory rights to withhold payment if he was not receiving a service outweighed the landlord's right to rent. He had not taken any formal advice about withholding rent. He had not raised a Tribunal application in relation to the repairing standard.
9. The Respondent said that he had contacted the local authority, and they had said that if an eviction order was granted they would provide him with emergency accommodation. He was clear that he no longer wished to live in the property. He was content not to oppose the granting of the eviction order sought.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing 2nd September 2024 and a rent of £375 per month;
- b. A Notice To Leave, dated 13th June 2025, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;

- d. The Application was served on the Respondent by Sheriff Officer on 12th January 2026;
- e. The Applicant complied with the Pre Action Requirements;
- f. The Respondent is in arrears of rent in the amount of £6000, equating to 16 months' rental payments;
- g. The Respondent is not opposed to the order for eviction being granted.

Reasons for Decision

10. Ground 12 states as follows:

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.

11. The Tribunal is satisfied that the Applicants have established the ground of eviction in that the rent is 16 months in arrears. The Tribunal is also satisfied that it is reasonable to grant the order as the Respondent is not opposed to it. now has to decide if it is reasonable to grant the eviction order.

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.

A Kelly

Legal Member/Chair

Date: 23/02/2025