



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”)

Chamber Ref: FTS/HPC/EV/25/4121

Re: Property at 342 Waterfront Apartments, Riverside Drive, Dundee, DD1 4XD (“the Property”)

Parties:

Ms Pinar Ucar or Arayan, Flat 11, Selva House, 231 High Street, Enfield, London, EN3 4FG (“the Applicant”)

Mr Darren Doherty, 342 Waterfront Apartments, Riverside Drive, Dundee, DD1 4XD (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 12 of schedule 3 of the 2016 Act are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

In terms of section 51(4) of the 2016 Act the private residential tenancy between the parties will end on 15 May 2026.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 12 as the ground for eviction, stating that the Respondent was in arrears of rent.
- 2 The application was accepted as valid and referred to a tribunal for determination. A case management discussion (“CMD”) was scheduled to take

place by teleconference on 14 April 2026 at 10am. The Tribunal gave notice of the CMD to the parties in accordance with rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 24 February 2026.

- 3 The Tribunal asked the Respondent to make written representations in response to the application no later than 14 March 2026. No written representations were received from the Respondent.

The CMD

- 4 The CMD took place by teleconference on 14 April 2026 at 10am. Mr Calvin Gordon of Thorntons Solicitors represented the Applicant. The Respondent did not join the call. The tribunal noted that he had been given proper notice of the CMD under rule 17(2) of the Rules and had provided no explanation for his absence. The tribunal therefore delayed the start of the CMD for a short period before determining to proceed in his absence.

- 5 The tribunal had the following documents before it:-

- (i) Form E application form;
- (ii) Land certificate confirming the Applicant's ownership of the property and proof of their landlord registration;
- (iii) Private residential tenancy agreement between the parties;
- (iv) Notice to leave and proof of delivery to the Respondent;
- (v) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 ("section 11 notice) and proof of delivery to the local authority;
- (vi) Rent statement; and
- (vii) Copy correspondence and emails from the Applicant's letting agent to the Respondent.

- 6 The tribunal heard submissions from Mr Gordon on the application. The following is a summary of the key elements of the submissions.

- 7 Mr Gordon spoke to the rent arrears, which have now increased to £19,889.92. The rent is £1600 per month. The Applicant has been receiving direct payments of £655.01 from universal credit since October 2025, which comprises of £615 towards the rent and £40.01 towards the arrears. The Applicant has a mortgage over the property and the situation is no longer sustainable. Mr Gordon had limited information regarding the Respondent's circumstances. The Respondent is believed to live alone and has no known health issues. The Applicant's letting agent has indicated that the Respondent was working but is no longer in employment. The Respondent has stated to them that he is pursuing a council house and wants the eviction order to assist him with this.

- 8 The tribunal adjourned the CMD to deliberate, at which point Mr Gordon left the call, before resuming the discussion and confirming the outcome.

Findings in fact and law

- 9 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement, which commenced on 1 July 2024.
- 10 The Applicant sent the Respondent a notice to leave as defined by section 62 of the 2016 Act. The notice to leave was emailed to the Respondent on 31 July 2025. The Respondent agreed to the delivery of notices by email under the terms of the tenancy agreement between the parties.
- 11 The Applicant sent the local authority a section 11 notice as required by section 56 of the 2016 Act prior to making this application.
- 12 The contractual rent for the property is £1600 per calendar month.
- 13 The rent account has been in arrears since 1 February 2025.
- 14 When the notice to leave was delivered to the Respondent the rent arrears stood at £9500.
- 15 As at the date of this decision, the rent arrears stand at £19,889.92.
- 16 The rent arrears are not known to be due to any failure or delay in the payment of a relevant benefit.
- 17 The Applicant's letting agent, Premier Property Management, has written to the Respondent in compliance with the rent arrears pre-action protocol. The Applicant's letting agent has provided the Respondent with information regarding the rental obligations and arrears due, has offered to enter into payment plans, and has directed the Respondent to agencies for advice and support.
- 18 The Respondent lives alone. The Respondent has no known health issues.
- 19 The Respondent receives universal credit. The Applicant has received direct payments of the housing element of universal credit in the sum of £655.01 per month since October 2025, which consists of £615 towards the rent and £44.01 towards the arrears.
- 20 The Respondent does not oppose the application. The Respondent is pursuing a council tenancy.
- 21 It is reasonable to make an eviction order.

Reasons for decision

- 22 The tribunal was satisfied it had sufficient information before it to make relevant findings in fact and reach a decision on the application having considered all of the documentary evidence and the oral submissions from Mr Gordon at the CMD and that to do so would not be contrary to the interests of the parties in this case.
- 23 The tribunal considered the wording of section 51:-

“51 First-tier Tribunal's power to issue an eviction order

(1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may... find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.”

- 24 Section 52 of the 2016 Act goes on to state that *“an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.”* The tribunal had before it a copy of a notice to leave that had been delivered to the Respondent by email. The tribunal was also satisfied that the Applicant had sent a section 11 notice to the local authority in accordance with the requirements of section 56 of the 2016 Act.

- 25 The tribunal considered ground 12 of schedule 3 of the 2016 Act:-

“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.”

- 26 The tribunal accepted the documentary evidence and submissions from Mr Gordon which were clear and consistent. There was no contradictory evidence before the tribunal.
- 27 The tribunal therefore determined that the rent account had been in arrears for three or more consecutive months when the notice to leave was delivered to the Respondent, and at the date of this decision, based on the rent statement produced.
- 28 The tribunal went on to consider whether it was reasonable to make an eviction order on account of the facts in this case, which requires the tribunal to identify those factors relevant to reasonableness and determine what weight should be applied to them.
- 29 The tribunal gave most weight to both the level of arrears and the length of time they have been outstanding. When this application was made to the Tribunal back in August 2024 the arrears stood at £12,659.99. They have since increased to £19,889.92. It is a significant balance and the tribunal accepted that it would have caused the Applicant a level of stress, particularly as the Applicant has a mortgage over the property. There was no evidence before the tribunal to suggest that the arrears were due in any part to a failure or delay in the payment of a relevant benefit. The tribunal was further satisfied based on the correspondence produced that the Applicant has fully complied with the rent-arrears pre-action protocol.

- 30 The tribunal carefully considered the Respondent's circumstances. The information before the tribunal was limited on this issue as the Respondent had chosen not to participate in the proceedings. There were no known dependents residing with the Respondent who would be at risk of eviction. The tribunal also considered the fact that the Respondent had not opposed the application. The tribunal accepted based on Mr Gordon's submissions that this was likely because he was pursuing council housing and the eviction order would assist him with this process.
- 31 Accordingly, having considered those factors relevant to reasonableness, the tribunal concluded that the balance weighed in favour of making an eviction order.
- 32 The tribunal therefore concluded that the provisions of paragraph 12 of schedule 3 of the 2016 Act have been met in this case.
- 33 The decision of the tribunal was unanimous.

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.

Ruth O'Hare

Legal Member/Chair

Date: 14 April 2026