



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/25/3609**

**Re: Property at 1 Glendevon Terrace, Edinburgh, EH12 5UW (“the Property”)**

**Parties:**

**Mr Richard Goodwin, 11 Leys Hill, Frome, Somerset, BA11 2JZ (“the Applicant”)**

**Ms Carin Lawson, 1 Glendevon Terrace, Edinburgh, EH12 5UW (“the Respondent”)**

**Tribunal Members:**

**Serena Weir (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for possession should be granted such order not to be enforced before 12noon on 17 April 2026.**

**Background**

1. By application dated 20 August 2025, the Applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“**the Act**”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“**the Regulations**”).
2. On 06 October 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
3. A Case Management Discussion (“**CMD**”) was set to take place on 10 March 2026 and appropriate intimation of that hearing was given to all parties
4. The application was heard together with a conjoined application involving the same parties for a payment order under tribunal reference FTS/HPC/CV/25/3610.

## **The Case Management Discussion**

5. The CMD took place on 10 March 2026 via telephone case conference. The Applicant was represented by Mr Puren of Pure Property Management. The Respondent was represented by Ms Bennett of Edinburgh Housing Advice Partnership (EHAP) / Community Help and Advice Initiative (CHAI).
6. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
7. The tribunal asked various questions of the Applicant's representative with regard to the application who confirmed that the Applicant was insisting on the application. The tribunal also asked various questions of the Respondent's representative with regard to the application.
8. A written submission had been sent to the tribunal on behalf of the Respondent to confirm that she did not have any objection to an eviction order being made but asked that the tribunal consider a delay in enforcement of an eviction order. The further time sought was an additional 30 days beyond the existing appeal deadline of 30 days from the date of the order. The reason given for the further time sought was to allow the Respondent more time to engage with homelessness team in West Lothian Council. The Respondent had a meeting with the homelessness team at the City of Edinburgh Council. The Respondent and her partner both work in West Lothian where expected wait times for a council property are significantly less than with City of Edinburgh Council. The Respondent engaged with the homelessness team in West Lothian Council at some point before 25 February 2026 and has made a housing application there.
9. The request for a delay was opposed by the Applicant. The Applicant's representative explained the period of time that the arrears had arisen over and the forbearance afforded to the Respondent to date. Notice to leave the property had been given almost a year ago and no rent had been paid since the application had been made to the tribunal. The income received by the Respondent and her family appeared to be more than sufficient to pay the rent in full. No rent had been paid since August 2025. Meantime, the Applicant had continued to make payments in respect of the property, such as the mortgage.
10. Produced alongside the application was a copy of the Private Residential Tenancy Agreement signed on 01 September 2020, two rent increase notices dated 01 April 2023 and 01 March 2025, a tenant statement of account, correspondence to the tenant dated 06 July 2022, 11 June 2024, 31 July 2024, 06 and 20 August 2024 and 14 May 2025, a copy of the notice to leave together with evidence of service and a copy of the section 11 notice to the local authority together with evidence of service. None of the supporting papers were disputed by the Respondent.

## **Findings in Fact**

11. The Applicant is the registered joint owner of the property.

12. The Applicant (together with the other joint owner of the property) and the Respondent, as respectively the landlord and tenant, entered into a tenancy of the property which commenced on 14 September 2020.
13. The tenancy was a Private Residential Tenancy in terms of the Act.
14. The initial agreed monthly rental was £1,230. Rent was increased to £1,266 per month from 01 July 2023. Rent was later increased to £1,300 per month from 11 June 2025.
15. On 14 May 2025 the Applicant served upon the Respondent a notice to leave as required by the Act ("**the Notice**"). Service of the Notice was effected by email as permitted under the Private Residential Tenancy. The Notice became effective on 16 May 2025. The Notice informed the Respondent that the Applicant wished to seek recovery of possession of the property using the provisions of the Act, namely that the Respondent was in arrears of rent over three consecutive months.
16. The Notice was correctly drafted and gave appropriate periods of notice as required by law.
17. The Notice set out one of the grounds contained within schedule 3 of the Act, namely ground 12 (that the Respondent had been in arrears of rent for three or more consecutive months). Arrears at the date of service of the Notice were £5,322.71.
18. Arrears had started to accrue in January 2022 and at the date of the lodging of the application arrears amounted to £7,922.71.
19. The amount of arrears at the date of the CMD was £15,722.71.
20. Appropriate accounting had been provided with the application to the tribunal in respect of the outstanding rent due under and in terms of the Private Residential Tenancy.
21. The basis for the order for possession on ground 12 was thus established.

### **Reasons for Decision**

22. The order for possession sought by the Applicant was based on a ground specified in the Act and properly narrated in the Notice served upon the Respondent. The tribunal was satisfied that the Notice had been served in accordance with the terms of the Act and that the Applicant was entitled to seek recovery of possession based upon this ground.
23. The tribunal accepted the evidence presented on behalf of the Applicant with regard to the rent arrears. A rent statement was produced which set out the history of the arrears. Since January 2022, the Respondent has failed to pay the full rent as it fell due and significant arrears have accrued. The last payment made by the Respondent was in August 2025. Since that date no payments have been made.
24. The tribunal was satisfied that the Respondent has been in arrears for a period far in excess of three consecutive months. The tribunal accepted the unchallenged evidence of the Applicant relating to the arrears. The tribunal accepted that the Applicant had made appropriate attempts to encourage the

Respondent to deal with the arrears. The Applicant has fully complied with the relevant provisions of the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

25. The ground for eviction based on rent arrears was accordingly established.
26. Since 07 April 2020, in terms of changes initially made by the Coronavirus (Scotland) Act 2020 and then by the Coronavirus (Recovery and Reform) (Scotland) Act 2022, an eviction order on ground 12 can only be granted if the tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
27. The tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson*, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in a frequently quoted passage:

*“[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account”.*

28. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
29. In this case the tribunal finds that it is reasonable to grant the order. The balance of reasonableness in this case is weighted towards the Applicant in this application for the following reasons.
30. The level of arrears is extremely high. The Respondent's representative confirmed that the Respondent is currently working and receives £1,800 per month. The Respondent's partner, who also lives at the property, receives £800 per week. One of the Respondent's two adult children who live with her is also in full time employment albeit the amount of the take home wage was not known to the Respondent's representative. The Respondent has no apparent health problems. Reference was made to the health conditions experienced by the Respondent's partner and 18 year old child as set out in the written submission. The explanation for the failure to fully meet the rental obligations was that the Respondent and her partner had prioritised the payment of other sums owed. The arrears as at the date of the application and the CMD are a significant sum and there appears to be no likelihood of them being repaid by the Respondent. The fact that the Respondent had no

objection to the order being made was another factor which the tribunal considered made the granting of the order reasonable in all of the circumstances.

31. That (i) the Respondent's household appears to have sufficient income to meet the monthly rental payment but has instead decided to prioritise payment of other debts; (ii) absolutely no payments have been made towards the rent since August 2025; and (iii) the Respondent has already engaged with West Lothian Council about new accommodation, were factors which weighed against a decision to delay the date on which the possession order comes into effect for any significant period. Accordingly, the tribunal was persuaded to restrict any further delay for only a short period of time until 17 April 2026.

### **Decision**

The tribunal decided to exercise the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD

### **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.**

# Serena Weir

Legal Member/Chair

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Date: 10/03/2026