



**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/25/3937**

**Re: Property at Doonholm Farm Annexe, Doonholm, Ayr, KA6 6BL (“the Property”)**

**Parties:**

**Mr Peter Kennedy, Doonholm House, Doonholm, Ayr, KA6 6BL (“the Applicant”)**

**Miss Ellie Fergusson, Doonholm Farm Annexe, Doonholm, Ayr, KA6 6BL (“the Respondent”)**

**Tribunal Members:**

**Martin McAllister (Legal Member) and Melanie Booth (Ordinary Member) (“the tribunal”)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order of eviction in respect of the Property be granted in favour of the Applicant**

**Background**

1. The Applicant has applied under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”) on the ground that the Respondent has been in arrears of rent for three or more consecutive months.
2. The application is dated 9 December 2025.

## **Preliminary Matters**

3. The case management discussion was held by audio conference on 27 March 2026. Mrs Linda Lawson represented the Applicant who was not present. The Respondent was in attendance.
4. The legal member explained the purpose of a case management discussion.
5. Mrs Lawson said that the current rent arrears amounted to £6955. The Respondent did not dispute that there were rent arrears but did not know the amount. She was referred to the rent statement and agreed that she last paid rent in February 2025.
6. Mrs Lawson submitted that there was sufficient evidence for the application to be determined without a hearing.

### **7. Documents before the tribunal**

- 7.1 Copy of the private residential tenancy agreement for the Property dated 22 October 2019 showing that the tenancy commenced on 14 October 2019.
- 7.2 Notice to Leave dated and served on 29 July 2025.
- 7.3 Rent statement and copy bank statements.
- 7.4 Notice to the local authority in terms of Section 11 of The Homelessness etc. (Scotland) Act 2003 dated 8 January 2025.
- 7.5 A Sales and Purchase Agreement dated 2 September 2025.

### **8. Findings in Fact**

- 8.1 The Applicant owns the Property and is entitled to apply for an order of eviction.
- 8.2 The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property on 22 October 2019.
- 8.3 The start date for the tenancy was 14 October 2019.
- 8.4 At commencement of the tenancy, the rent was £520.
- 8.5 The current monthly rent for the Property is £535.
- 8.6 At the date of the application, the tenant had been in rent arrears since March 2025 and has been continuously in arrears since that date.
- 8.7 There are currently rent arrears of £6955.
- 8.8 The Applicant gave the Respondent Notice to Leave on 29 July 2025.
- 8.9 The Applicant has given notice to the local authority in terms of Section 11 of the Homelessness etc. (Scotland) Act 2003.

### **9. Findings in Fact and Law**

- 9.1 The Private Residential Agreement dated 22 October 2019 contains eviction grounds including Ground 12: “It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.”
- 9.2 The Respondent has been in rent arrears for three or more consecutive months.
- 9.3 The Notice to Leave, which was dated 29 July 2025, referred to Ground 12 which is being relied on by the Applicant as the reason for seeking recovery of the Property.
- 9.4 The Notice to Leave indicated that any proceedings for eviction would not be commenced prior to 30 August 2025.

## **The Law**

The following are provisions of the Private Housing (Tenancies) (Scotland) (Act) 2016

### *Section 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.*

*(introduced by section 51)*

### **Schedule 3, Part 3**

#### **Rent arrears**

12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2) *Repealed*

(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.

## **Evidence and Submissions**

10. The tribunal had regard to the documentation which had been lodged by the Applicant.

11. Mrs Lawson asked the tribunal to accept that the ground for eviction was met.

12. Mrs Lawson confirmed what she had said at the commencement of the CMD. She said that the rent arrears continue to rise and said that they are currently at £6995.
13. The Respondent did not dispute the level of rent arrears and confirmed that rent was last paid in February 2025.
14. Mrs Lawson invited the tribunal to consider it reasonable that the Applicant be allowed to recover the Property because of the level of rent arrears and the fact that they are rising. She said that the Respondent had been a good tenant. Mrs Lawson said that she has sympathy for the situation in which she finds herself but that the Applicant should not be expected to allow the Respondent to live rent free in the Property.
15. The Respondent said that she had been working at the commencement of the tenancy and had then left to become a student. She said that she had been able to maintain rent payments whilst she was a student because of the funding that she had received. She said that she was latterly a post graduate student but that she had to give up her studies.
16. The Respondent disclosed a significant health condition for which she required treatment. She explained that she had been forced to leave University and then the funding she was receiving had stopped. The Respondent said that she had accessed state benefits but that there had been some delay in those starting and that it was only fairly recently that these had commenced. She conceded that the housing element of the benefits was £385 per calendar month and that she had not paid any of this to the Applicant in part payment of rent. She said that she needed the funds for other things, including removal costs when she leaves the Property.
17. The Respondent said that she was fifty five years old and lived alone.
18. The Applicant said that she had planned to move in with her mother but that this was no longer possible because she had moved into a care home.
19. The Applicant said she had submitted a housing application with her local council and had been told to present herself at the council offices whenever Sheriff Officers arrived at the Property to implement the eviction order. She said that she had been told that she would then be treated as being homeless.
20. The Applicant said that she had also made application to housing associations in her area.

21. The Applicant said that she understood why the Applicant would want to recover the Property.

### **Discussion and Reasons**

22. The tribunal had regard to the documentation which had been lodged by the Applicant.

23. The tribunal considered that there was no reason to adjourn determination of the application to a hearing.

24. The tribunal had no hesitation in finding that the requirements of Ground 12 were met. The Respondent did not dispute that she had been in arrears of rent from March 2025, some five months prior to the application being submitted. She also accepted that she had not paid rent since February 2025.

25. In considering whether it was reasonable to grant the order of eviction, the tribunal considered the respective position of the parties.

26. The Applicant is entitled to be paid the rent and the Respondent is contractually bound to pay it. The rent arrears are rising on a monthly basis.

27. The Respondent is a lady who has a serious health issue and is someone for whom homelessness would be significant. Part of the benefits she received was for housing and she was candid in stating that she did not pass this over to the Applicant because she needed the money for other things.

28. In balancing matters, the tribunal considered it reasonable to grant the order of eviction. It did not consider that, in all the circumstances, the Applicant should be expected to provide free housing for the Respondent, even though she has particular health issues.

### **Note**

29. It is suggested that the Respondent contact her council housing office as soon as she receives the decision and order of eviction, rather than waiting until she has actually been evicted.

### **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.**

**Martin J. McAllister  
Legal Member  
31 March 2026**