



Notes on a Case Management Discussion 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/24/4940

Re: Property at 94 McGregor Avenue, Stevenson, KA20 4BJ ("the Property")

Parties:

Mrs Hughina Jacqueline Burnett, 2 St Andrews Court, Saltcoats, KA21 6GF ("the Applicant")

Ms Fiona Menzies, 94 McGregor Avenue, Stevenson, KA20 4BJ ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion ("CMD"), which took place by telephone conference on 19 March 2026, the Applicant was present. The Respondent was neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Applicant having received notice of the CMD.

Background

A CMD had previously taken place on 27 October 2025. That CMD was adjourned to a further CMD to allow the Applicant to attend and for the following purposes as set out in the Notes thereof –

- i. In that the Applicant has not lodged a full and complete copy of the PRT, a full and complete copy requires lodged by the Applicant no later than 7 days prior to the adjourned CMD. It appears that the copy submitted with the application has every second page is missing.
- ii. In that the Applicant has not lodged a full and complete copy of the email of 28 August 2024 sent by her then Letting Agent, Move 2 Lettings, to the Respondent, a full and complete copy requires lodged by the Applicant no later than 7 days prior to the adjourned CMD including any attachments thereto.

- iii. For the Applicant to consider the validity of the Notice to Leave served on 20 September 2024 and to address the Tribunal thereon in light of the email address used to serve the Notice to Leave being erroneous.

Prior to the adjourned CMD the Tribunal had received the following from the parties –

From the Applicant

- Emails dated 7 and 8 November 2025, and 6 and 12 January, and 10 February 2026 with attachments.
- A full but unsigned copy of the Private Residential Tenancy Agreement (“the PRT”) with the Respondent.

On behalf of the Respondent

- Email from Louise Mathieson of CHAP, Ardrossan withdrawing from acting for the Respondent.

The CMD

At the CMD and in response to questions from the Tribunal the Applicant stated:-

- i. The PRT was signed by the parties. The PRT lodged with the Tribunal was sent to the Applicant prior to signature.
- ii. The Applicant does not have the second or any subsequent pages of the email of 28 August 2024 sent by her then Letting Agent, Move 2 Lettings, to the Respondent. Her current Letting Agent advised that they have moved to a different system so the email is not available.
- iii. The rent arrears are now £12,900.
- iv. The last payment made by the Respondent was in August 2024. At that point the Respondent was already in arrears in a sum of £2,420.00.
- v. When the Property was let to the Respondent she occupied it with her partner and two children who would now be around 11 and 12 years of age.
- vi. The Applicant drove passed the Property recently. The Respondent and her children are still living there.
- vii. The Applicant does not know if the Respondent is employed. She previously worked for a charity – “Baby Bundles”.
- viii. The Applicant did not know if the Respondent is in receipt of benefits and no application had been made for any form of direct payments.
- ix. The Applicant is not aware of any disabilities affecting the Respondent or her household.
- x. The Applicant said there had been a lack of engagement from the Respondent relative to the rent arrears. She observed that the Respondent’s representative had recently withdrawn from acting for her as she could not get hold of the Respondent either.
- xi. A right of entry application to the Tribunal has recently been granted and entry is scheduled for 24 March. In connection with the right of entry application in June 2025 the Applicant’s Letting Agent contacted the Respondent by email to fionamenzies@gmail.com and she answered. So, despite what was said on the Respondent’s behalf at the previous CMD, that email address is correct.
- xii. The Applicant and her husband are both retired.
- xiii. The Property was her father-in-law’s house.
- xiv. The income from the let of the Property was intended to top up their pensions. The Applicant said the situation was “a joke”.
- xv. There is no mortgage over the Property.

- xvi. Insofar as the Applicant is concerned the Respondent is squatting in the Property having paid nothing at all for 20 months.
- xvii. The Applicant has no other rented properties.
- xviii. The situations has caused the Applicant and her husband much anxiety.
- xix. The Applicant seeks an eviction order.

The Tribunal adjourned briefly.

Findings in Fact

The Tribunal made the following findings in fact –

- i. Mr James Burnett (the Applicant's husband) is the heritable proprietor of the Property.
- ii. The Applicant for Mr Burnett leased the Property to the Respondent in terms of the PRT that commenced on 11 March 2021.
- iii. The rent payable in terms of the PRT is £550 per calendar month.
- iv. The Respondent's email in terms of the PRT was erroneously stated to be fionaumenzies@gmail.com.
- v. On 20 September 2024, the Applicant's agent, Limegreen Estate Agents, attempted to serve on the Respondent by email to fionaumenzies@gmail.com a Notice to Leave dated 20 September 2024 requiring the Respondent remove from the Property by 21 October 2024 on the basis that rent arrears had accrued in a sum of £3,000. Service was unsuccessful with the email immediately bouncing back and with a Microsoft Outlook message stating "fionaumenzies@gmail.com wasn't found at gmail.com".
- vi. On 20 September 2024, the Applicant's agent, Limegreen Estate Agents, thereafter served the Notice to Leave mentioned in paragraph v. immediately above on the Respondent by email to fionamenzies@gmail. Service was successful.
- vii. By emails dated 22 and 28 August 2026 the Applicant's Letting Agent wrote to the Respondent in terms that comply with the Scottish Government's pre-action protocols.
- viii. The Applicant has served on North Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- ix. The rent arrears are £12,900.
- x. The last payment made by the Respondent was in August 2024. At that point the Respondent was already in arrears in a sum of £2,420.00.

Reasons for Decision

The Respondent was not present or represented at the adjourned CMD.

Whilst at the original CMD the Respondent's representative suggested the Notice to Leave had not been validly served on the Respondent due to the email address used not being that within the PRT and therefore being erroneous, evidence was produced by the Applicant subsequently that showed service to the address per the PRT had been attempted and failed. The Respondent did not attend to further explain the position. The Tribunal did not accept the Respondent's position as previously stated.

The email address for the Respondent in the PRT is not correctly stated. Prior communications had been sent to the Respondent at fionamenzies@gmail.com, for example the pre action protocol letters. They had not bounced. The Notice to Leave was initially attempted to be served at the email address per the PRT. That email bounced. The Notice to Leave was therefore re-served successfully to fionamenzies@gmail.com. The Notice to Leave is valid.

The rent arrears are very significant. The Respondent has made no effort to pay or to engage in a dialogue to enter into a payment plan. She has occupied the Property rent free for approximately 2 years.

In the circumstances the Tribunal determined that it is reasonable to grant an eviction order in favour of the Applicant and made such an order.

Decision

The Tribunal granted an eviction order against the Respondent in favour of the Applicant under Ground 12 of Schedule 3 of the 2016 Act.

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.

Gillian Buchanan

Legal Member/Chair

19 March 2026
Date