



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/25/3164

Re: Property at 3/1 9 Malcolm Street, Dundee, DD4 6SF (“the Property”)

Parties:

Fixrole Limited, Pavillion, India Buildings, 86 Bell Street, Dundee, DD1 1HN (“the Applicant”)

Ryan Marshall, 3/1 9 Malcolm Street, Dundee, DD4 6SF (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. This is an application by the Applicant for an eviction order in regard to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”). The PRT in question was by the Applicant to the Respondent commencing on 3 March 2021.
2. The application was dated 21 July 2025 and lodged with the Tribunal on or about that date. (A revised application, back-dated to 21 July 2025, was then lodged on 14 August 2025 and this was the application sought by the Applicant.) The application relied upon a Notice to Leave dated 13 June 2025 in terms of section 50 of the *Private Housing (Tenancies) (Scotland) Act 2016*, intimated upon the Respondent by Sheriff Officer’s service on 16 June 2025. The Notice relied upon Ground 12 of Schedule 3 Part 1 of the 2016 Act, though erroneously also referring to grounds relevant only to assured tenancies. The Notice referred to a rent statement being appended. (This rent statement was not lodged, though later versions were lodged, showing that arrears as at 13

June 2025 stood at £6,250.) The Notice intimated that an application to the Tribunal would not be made before 16 July 2025.

3. The Tenancy Agreement lodged with the application showed that rent was £350 per month and due on the 1st of each month. The rent arrears as at 13 June 2025 thus amounted to almost 18 months of arrears.
4. Evidence of a section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* served upon Dundee City Council on 21 July 2025 was provided with the application. There was evidence in the application papers of compliance with provision of the pre-action protocol information in standard form, by letter from the Applicant's agent to the Respondent on 27 November 2024.
5. Prior to the case management discussion ("CMD") the Applicant provided an updated rent statement showing arrears of rent of £9,050 outstanding for the period to 28 February 2026.

The Hearing

6. The matter called for a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 6 March 2026 at 10:00. We were addressed by the Applicant's agent, Jay Lawson, solicitor, MML Law. There was no appearance from the Respondent.
7. We were informed by the clerk that no contact had been received from the Respondent (or on his behalf) with the Tribunal. The Applicant's agent said that no communication had been received by him from the Respondent and, having recently checked with the Applicant's letting agent, no contact had been received by them since March 2025. We noted that the Respondent had received clear intimation of the CMD by the Sheriff Officer instructed by the Tribunal. Having not commenced the CMD until around 10:05, we were satisfied to consider the application in the Respondent's absence. In any case, no attempt was made by the Respondent (nor anyone on his behalf) to dial in late to the CMD.
8. We sought an update on the rent position. The Applicant's agent referred to the updated statement showing irregular payment between August 2023 and May 2024, with the last payment being on 8 May 2024. Arrears for the period to 31 March 2026 were now £9,400. (A conjoined case on rent arrears also called alongside: CV/25/3163.)
9. The Applicant's agent provided further oral submissions on the background in regard to the reasonableness of the application:
 - a. The Property was a two-bedroom third floor flat.
 - b. The Property was not believed to be specially adapted for the use of the Respondent, nor especially suitable for his needs.
 - c. The Applicant's agent did not hold any details as to the Respondent's age. He had asked the Applicant's letting agent for any details of employment, and they believed the Respondent was not in employment.

- d. The Respondent was believed to reside alone at the Property. There was no information as to whether he had any dependent who lived elsewhere.
 - e. There were no other breaches of the tenancy relied upon.
 - f. The Applicant intended to relet the Property once vacant possession was obtained.
 - g. The Applicant knew of no issue with payment of benefits affecting the Respondent, and did not know of any payments of rent previously coming from benefits.
 - h. The Applicant knew of no health issues affecting the Respondent.
10. No motion was made for expenses.

Findings in Fact

11. On 3 March 2021, the Applicant let the Property as a Private Residential Tenancy to the Respondent with commencement on that date (“the Tenancy”).
12. In terms of clause 8 of the Tenancy Agreement, the Respondent required to pay rent of £350 a month in advance on the 1st day of each month.
13. As of 13 June 2025, the Respondent was in arrears of rent of £6,250 having failed to make regular and full payment of rent from 1 August 2023 until that date.
14. On 13 June 2025, the Applicant’s agent drafted a Notice to Leave in correct form addressed to the Respondent, providing the Respondent with notice, amongst other matters, that he was in rent arrears.
15. The Notice to Leave provided the Respondent with notice that no application would be raised before the Tribunal prior to 16 July 2025.
16. The Applicant served a copy of the Notice to Leave on the Respondent by Sheriff Officer’s service on 16 June 2025.
17. The Applicant raised proceedings on or about 21 July 2025 for an order for eviction with the Tribunal, under Rule 109, relying on Ground 12 of Schedule 3 Part 1 of the 2016 Act.
18. The Respondent has failed to make any payment towards rent since 8 May 2024, and the rent has been in arrears to some extent since 1 August 2023.
19. As of 6 March 2026, the Respondent remains in arrears of rent in the amount of £9,400 which is equivalent of over 26 months of rent.
20. The Respondent does not claim to have paid any amount of the arrears of £9,400 remaining as at 6 March 2026.

21. The sum of arrears remaining as of 6 March 2026 is neither wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, other than any referable to an act or omission of the Respondent.
22. The Respondent lives alone and the Property, and has no known dependents living with him at the Property.
23. The Property is a two-bedroom third floor flat.
24. The Property is not specially adapted for the use of the Respondent nor is its location specifically suitable for the Respondent's needs.
25. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon Dundee City Council by the Applicant.
26. The Applicant's agent issued a pre-action protocol letter in standard form to the Respondent by first class delivery on 27 November 2024 providing him with details of the arrears as at that date, and potential sources of advice.
27. Intimation of the date and time of the CMD was given to the Respondent by Sheriff Officer on 20 January 2026.

Reasons for Decision

28. The application was in terms of rule 109, being an order for eviction from a PRT. Notwithstanding the use of assured tenancies references in the Notice to Leave, and the failure to provide us with a copy of the version of the rent statement that accompanied that notice, we were satisfied in the circumstances that the Notice to Leave had been correctly drafted in its material terms, and had been served upon the Respondent.
29. Ground 12 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:
 - (1) *...the tenant has been in rent arrears for three or more consecutive months. ...*
 - ...
 - (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.*

...

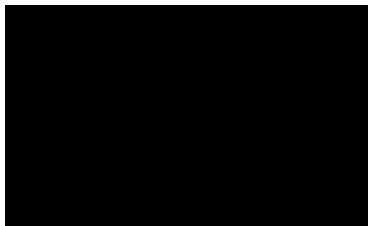
30. The arrears information provided at the CMD clearly showed that Ground 12 was satisfied in regard to the length of arrears and amount outstanding. There is nothing to suggest that the Respondent's failure to pay is related to an issue with benefits. Ground 12 is satisfied subject to paragraph 3(b) regarding reasonableness.
31. We require, in terms of the Act as currently amended, to consider the reasonableness of the application even in regard of persistent arrears. We were satisfied that the Applicant's reasons for seeking eviction were reasonable given the amount and duration of the arrears. There was an absence of any engagement by the Respondent on payment of the arrears. There has been (limited) compliance with the pre-action protocol. The Respondent did not appear or provide submissions in regard to any issue regarding reasonableness. In all the circumstances, we were satisfied that it was reasonable to evict on the basis of the information before us.
32. The Rules allow at rule 17(4) for a decision to be made at a CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time.

Decision

33. In all the circumstances, we grant an order against the Respondent for eviction from the Property under section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* further to ground 12 of Schedule 3 of that 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.



Legal Member/Chair

6 March 2026

Date