



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/25/4643

Re: Property at 63A Richmond Street, Aberdeen, AB25 2TS (“the Property”)

Parties:

Mrs Laura Edgar, 8 Buchan Park, Laurencekirk, AB30 1JE (“the Applicant”)

Mr Liam Dargie, 63A Richmond Street, Aberdeen, AB25 2TS (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Frances Wood (Ordinary Member) (“the tribunal”)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be granted and that an eviction order be granted.

Background

1. On 29 October 2025, the Applicant’s agents submitted an application to the First-tier Tribunal for Scotland seeking an order of eviction.
2. On 11 December 2025, the application was accepted for determination by the Tribunal.
3. A case management discussion was held by audio conference on 19 May 2026.

The case management discussion

4. Mr Wheat of Lamonts, Solicitors, represented the Applicant.
5. The Respondent was not present.
6. It was noted that details of the case management discussion had been intimated to the Respondent by Sheriff Officer on 17 April 2026 and the tribunal determined that the case management discussion should continue in his absence.
7. The Legal Member explained the purpose of a case management discussion. Mr Wheat invited the tribunal to determine the matter without a Hearing and to issue an eviction order under Rule 101 of the Tribunal Rules on the grounds that the conditions set out in Ground 12, Part 3 of Schedule 3 of the 2016 Act have been met.

8. Findings in Fact

- (i) The Applicant and the Respondent entered into a private residential tenancy agreement in respect of the Property on 27 January 2025.
- (ii) The tenancy commenced on 5 February 2025.
- (iii) The monthly rent due under the private residential tenancy is £525.
- (iv) The rent arrears due as at 29 October 2025 were £4200.
- (v) The rent arrears due as at 19 May 2026 are £7875.
- (vi) The Respondent has made no payment of rent since he paid £440 in February 2025.
- (vii) There were rent arrears for the months of March, April, May, June, July, August, September and October 2025.

9. Finding in Fact and Law

The Respondent is in rent arrears for three or more consecutive months as at the date of the application and at the date of the case management discussion.

10. Documents before Tribunal

- (i) Private residential tenancy agreement dated 27 January 2025.
- (ii) Copy Notice to Leave dated 18 August 2025.
- (iii) Copy Section 11 intimation to local authority dated 29 October 2025.
- (iv) Decisions of the Tribunal dated 30 August 2024 and 23 January 2025.
- (v) Rent statements.
- (vi) Email correspondence with regard to the arrears of rent.

11. The Law

Section 51 of the 2016 Act:

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 or must 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.

Ground 12, Part 3 of Schedule 3 of the 2016 Act

Rent arrears

(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.

Respective position of the parties in relation to Ground 12

12. The position of the Respondent was unknown since he had not submitted representations or participated in the case management discussion.
13. Mr Wheat said that the Respondent had paid £440 at the commencement of the tenancy which was in respect of the period to the end of that month. He said that the Respondent was contractually bound to pay the sum of £525 on 1 March 2025 and monthly thereafter. Mr Wheat directed the tribunal to a rent statement which showed that the Respondent has only paid £440 which amounted to rent for three weeks and has paid nothing else during the tenancy.

Reasonableness

14. Mr Wheat said that the Respondent had lived in the Property for fifteen months and had paid rent of only £440. Mr Wheat said that the Applicant had received no rent since February 2025, and that it was therefore reasonable for the order of eviction to be granted.

15. Mr Wheat conceded that the Applicant had not sent correspondence to the Respondent signposting him to agencies which might be able to assist tenants unable to pay rent. He said that, as far as he understood, the Applicant had attempted to engage with the Respondent by telephone and visits when there had been non payment of rent and he referred to email correspondence which had also been submitted.
16. Mr Wheat referred to decisions of the Tribunal which he had submitted and which are dated 30 August 2024 and 23 January 2025. These show that the Respondent had been evicted from a property at 3A Urquhart Street, Aberdeen because of rent arrears and that an order of payment had been made against him for £5410.
17. Mr Wheat said that the Respondent is twenty eight years old and, as far as is known, is a self-employed software developer. He said that no dependents reside with him. Mr Wheat said that, as far as the Applicant knows, there had been no issues with non payment of benefits which would have caused the arrears to accumulate.
18. Mr Wheat said that the Respondent had chosen not to engage with the Tribunal process.

Reasons for Decision

19. The tribunal saw no reason for determination of the application to be continued to a Hearing.
20. The tribunal was satisfied that the Notice to Leave was in appropriate terms and had been served on the Respondent. The tribunal was satisfied that the appropriate notice had been served on the local authority under the Homelessness etc (Scotland) Act 2003.
21. On the basis of the rent statements, it was clear that the requirement of Ground 12 had been met. The Respondent had made only one payment of rent and had been continuously in arrears of rent since March 2025.
22. The tribunal required to consider whether or not the granting of an order of eviction was reasonable. It is a matter of judicial discretion and, in considering reasonableness a balancing exercise requires to be undertaken.
23. The current level of rent arrears is £7845.
24. The Respondent had entered into a contractual commitment to pay rent on a monthly basis but had made only one payment.
25. The Respondent had not engaged in the Tribunal process.

26. It was not reasonable for the Applicant to supply a home for the Respondent who was not meeting his contractual obligations and had made only one payment of rent which was at the outset of the tenancy.

27. The tribunal noted that there had been two decisions of the Tribunal where the Respondent had been a party which showed that he had been evicted from a property and which required the him to make a payment to a landlord in respect of rent arrears for that property. In determining the application, the tribunal had no regard to these previous decisions.

Decision

28. The tribunal determined that the application be granted and that an eviction order be made.

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 McAllister

**Martin J. McAllister
Legal Member
19 May 2026**