



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/25/1485

Re: Property at 5/3 Royston Mains Road, Edinburgh, EH5 1JQ (“the Property”)

Parties:

Mr TOMASZ PIORECKI, UL LASKOWIEC 3, 32040, OCHOJNO, Poland (“the Applicant”)

MRS IZABELA OLCZAK, 5/3 Royston Mains Road, Edinburgh, EH5 1JQ (“the Respondent”)

Tribunal Members:

Serena Weir (Legal Member) and Robert Buchan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant such order not to be enforced before 12noon on 12 August 2026.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“**the 2016 Act**”).
2. The application was accompanied by unsigned Private Residential Tenancy Agreements between the Applicant and Halina Piorecki and the Respondent commencing 01 June 2019, 01 October 2024 and 01 October 2025, various rent statements the latest of which was made up to December 2025, a text message dated 27 January 2025 from the Respondent, various text messages in Polish, a Power of Attorney from Halina Piorecka in favour of the Applicant, a Notice to Leave dated 06 March 2025, a postal receipt dated 07 March 2025, a Confirmation of Service, an email from Mr Stojek CAB and an email dated 04 April 2024 addressed to Edinburgh City Council with a Notice under Section 11 of the Homelessness etc.(Scotland) Act 2003.

Case Management Discussion – teleconference –16 December 2025

3. A case management discussion took place via teleconference on 16 December 2025. The Applicant appeared on his own behalf. Mr Donegan from CHAI appeared on behalf of the Respondent. The Tribunal fixed a hearing to establish the facts and to hear from parties on the legal issues prior to determining the application. A note and Direction were issued to parties following the case management discussion setting out information which the Tribunal considered necessary in order to determine the application.

Evidential Hearing – in person – 11 May 2026

4. The Evidential Hearing was scheduled to take place on 11 May 2026 at 10am, in person before both Members of the Tribunal. The Applicant was accompanied by his wife and joint owner of the Property, Halina Piorecka. The Respondent was not in attendance but was represented by Mr Donegan from CHAI.
5. At the outset of the Evidential Hearing it was confirmed that the Respondent was no longer opposing the application. Mr Donegan explained that the Respondent asked that enforcement of the eviction order be delayed for three months.
6. Mr Donegan explained that the Property was no longer affordable for the Respondent. The rent is presently £1,100 per month. The Respondent's sole means-related income is Universal Credit. The rent sought by the Applicant is above the relevant two-bedroom Local Housing Allowance rate for Universal Credit housing costs. The Respondent cannot afford the shortfall and must therefore find alternative accommodation.
7. The Respondent has been in contact with the City of Edinburgh Council Homelessness Team regarding a homelessness assessment and an appointment date is to be confirmed in due course.
8. The Respondent lives at the Property with her 10-year-old daughter, who attends school locally. The Respondent has epilepsy and has advised that she will need practical support to move, including possible help from family in Poland. The Respondent is a single parent and has advised that she is alone in Scotland with her daughter. Additional time was sought to allow the Respondent to engage with homelessness services, minimise disruption to her daughter's schooling, and arrange practical support for moving.
9. The Respondent acknowledged the existence of rent arrears but made no admission in respect of the alleged total amount of the rent arrears.
10. The Applicant explained that he was still insisting on the application. Despite several attempts to contact the Respondent, there had been no response. The rent arrears owed as at the date of the hearing were £12,229.96. Since the CMD, the Applicant had successfully applied for the housing element of the Respondent's Universal Credit to be paid to him directly. The sum of £710.02 was received in March and April 2026. The Applicant explained that the mortgage on the Property was up to date but the rent arrears had meant that they had to engage with the secured lender to discuss a voluntary sale or re-mortgage of the Property.

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 01 June 2019. Another tenancy agreement was agreed between the parties on 01 October 2024.

13. The tenancy agreements were Private Residential Tenancies in terms of the Act.
14. The initial agreed monthly rental was £650. Rent was increased to £850 per month from 01 October 2024. Rent was later increased to £1,100 per month from 01 October 2025.
15. On 06 March 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, by Facebook Messenger, by post and by courier. The Notice became effective on 06 March 2025 following service of the Notice by courier. 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 not opposed by the Respondent.
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). Rental arrears at the date of service of the Notice were £2,550.
18. The amount of rental arrears at the date of the Evidential Hearing was £12,229.96.
19. Appropriate accounting had been provided with the application to the Tribunal in respect of the outstanding rent due.
20. The basis for the order for possession on ground 12 was thus established.

Reasons for Decision

21. 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.
22. 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 2025, 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 £600 on 06 November 2025. Since that date, with the exception of the housing element of the Respondent's Universal Credit which has been paid to the Applicant directly in March and April 2025, no further payments have been made by the Respondent.
23. 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.
24. The ground for eviction based on rent arrears was accordingly established.

25. 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.
26. 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”.

27. 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.
28. 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.
29. The level of arrears is extremely high. The Respondent’s representative acknowledged that the rent is unaffordable for the Respondent. The reason for that is that the monthly rent exceeds the Local Housing Allowance rate for Universal Credit housing costs. The Respondent’s sole means-related income is Universal Credit and she cannot afford the shortfall. The Respondent is in receipt of a housing element as part of her Universal Credit. That has not been paid to the Applicant each month. The arrears as at the date of the application and the Evidential Hearing are a significant sum and there appears to be no likelihood of them being repaid by the Respondent. The shortfall and non-payment of rent has created financial difficulty for the Applicant who is faced with the possibility of having to sell the Property to avoid defaulting on mortgage payments.
30. The Respondent has already engaged with Edinburgh City Council about new accommodation.
31. The school term for the Respondent’s daughter was due to come to an end at the end of June 2026. Any potential disruption could be minimised by a short delay in the eviction order coming into effect.
32. 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.

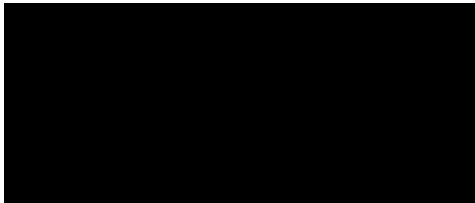
33. Accordingly, the Tribunal was persuaded to delay enforcement of the order until 12 August 2026.

Decision

34. The Tribunal determines that an eviction order should be granted against the Respondent but enforcement delayed until 12 August 2026.

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.



12/05/2026

Legal Member/Chair

Date

*Insert or Delete as required