



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/25/4489

Re: Property at Flat 4, 171 Lower Granton Road, Edinburgh, EH5 1GL (“the Property”)

Parties:

Nancy Galloway, Flat 1, 26 East Street, Bridport, DT6 3LF (“the Applicant”)

Mr Hieu The Dang, Flat 4, 171 Lower Granton Road, Edinburgh, EH5 1GL (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at Flat 4, 171 Lower Granton Road, Edinburgh, EH5 1GL under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

Background

1. By application dated 17 October 2025, the Applicant’s solicitor applied to the First- tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).

2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties dated 30 January 2025, a letter to the Respondent dated 11 October 2025, a Notice to Leave with email dated 3 September 2025, a rent statement and an email dated 17 October 2025 addressed to Edinburgh City Council with a Notice under Section 11 of the Homelessness etc.(Scotland) Act 2003.
3. On 11 November 2025, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 7 March 2026 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 28 March 2026. The Tribunal advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 27 April 2026. This paperwork was served on the Respondent by Alexander Horne, Sheriff Officer, Edinburgh on 10 March 2026 and the Execution of Service was received by the Tribunal administration.
5. The Respondent did not lodge any written representations by 28 March 2026.

Case Management Discussion

6. The Tribunal proceeded with a CMD on 27 April by way of teleconference. Ms Capaldi from Bannatyne Kirkwood France and Co, solicitors appeared for the Applicant. The Applicant was also in attendance. There was no appearance by or on behalf of the Respondent despite the CMD starting 5 minutes late to allow him plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence. The action was heard together with an action for payment of rent arrears under reference FTS/HPC/CV/25/4490.
7. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 30 January 2025, the letter to the Respondent dated 11 October 2025, the Notice to Leave with email dated 3 September 2025, the rent statement and the email dated 17 October 2025 addressed to Edinburgh City Council with a Notice under Section 11 of the Homelessness etc.(Scotland) Act 2003. The Tribunal considered these documents.
8. Ms Capaldi moved the Tribunal to grant an order of eviction. Arrears had increased to £5579.90. The Respondent had been consistently in arrears. The last payment was on 12 April 2026 of £4000. The Applicant had been very fair in her correspondence regarding the arrears with the Respondent and had sent a pre action letter on 11 October 2025. There had also been complaints of antisocial behaviour and in particular noise which had scared neighbours’ children on occasions. Neighbours had been disturbed from sleep. The Applicant had emailed the Respondent about that but there had been no response. Ms Capaldi went onto explain that the Respondent lived in the Property on his own. She was not aware of any vulnerabilities or issues

with housing benefits. The Applicant advised that the Respondent was 27 years of age.

Reasons for Decision

9. The Tribunal considered the issues set out in the application together with the documents lodged in support. The Tribunal also considered the following legislation in its determination -
 - Private Housing (Tenancies) (Scotland) Act 2016
 - The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
10. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 12(rent arrears).
11. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.
12. In terms of Section 54 of the 2016 Act a landlord may not make an application to the Tribunal for an eviction order against a tenant until the expiry of the relevant period in relation to that Notice. The relevant period begins on the day the tenant receives the Notice which in the case of Ground 12 of Schedule 3 is 28 days.
13. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states that it proceeds on Ground 12 of schedule 3 of the 2016 Act and states the amount of arrears at Part 2 of the Notice. The Notice to Leave specifies the date the Applicant as landlord expects to become entitled to make an application for an eviction order namely 4 October 2025. In terms of Section 62(4) of the 2016 Act, the Notice to Leave must specify the day falling after the day on which the notice period defined in section 54(2) will expire. In this case the Notice to Leave was received by the Respondent on 3 September 2025. In the circumstances the Tribunal is satisfied the Respondent has been given sufficient notice of 28 days. Accordingly, the Notice to Leave complies with Section 62.
14. The Tribunal considered the Respondent had not opposed the order for eviction. The Respondent's arrears were consistent with the arrears being at their highest at over £9000. Despite the payment of £4000 on 12 April, the arrears were still substantial. The Tribunal found that the Applicant had established a case under Ground 12. However, Ground 12 is discretionary ground of eviction. As well as being satisfied the facts have been established to support the ground, the Tribunal has to be satisfied that it is reasonable to evict.

15. The Tribunal noted the pre action requirement letter lodged with the application and accepted Ms Capaldi's submission that the Applicant had attempted to get the Respondent to engage with her regarding issues within the tenancy and that the Respondent had simply not engaged with her. The Tribunal gave considerable weight to those submissions. On the other hand, the Respondent did not oppose the application. The Tribunal noted that notice under Section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to Edinburgh City Council had been served. The Tribunal was satisfied on the basis of the documents lodged, together with submissions made by Ms Capaldi, that the balance of reasonableness in this case weighted towards the Applicant.

16. In the circumstances the Tribunal considered that in terms of Ground 12 of Schedule 3 the Respondent is in rent arrears and that it is reasonable to grant an eviction order in terms of Section 51 of the 2016 Act.

Decision

17. The Tribunal granted an Order of eviction. The decision of the Tribunal was unanimous.

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.

S.Evans

27 April 2026

Legal Member

Date