



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/EV/25/2379**

**Re: Property at 655F Great Northern Road, Aberdeen,, AB24 2BX (“the Property”)**

**Parties:**

**Mr David Paterson, 1 Highland Cottages Hatton Of Fintray East Garioch Ward, Aberdeenshire Scotland, AB21 0YG (“the Applicant”)**

**Mr Adam Ledinski, 655F Great Northern Road, Aberdeen, AB24 2BX (“the Respondent”)**

**Tribunal Members:**

**Karen Moore (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 the statutory process and the Ground for recovery**

**of possession having been established, it is reasonable to grant the Order sought.**

## **Background**

1. By application received on 4 June 2025 (“the Application”), the Applicant applied to the Tribunal for an Order for eviction and possession of the Property based on Ground 12 of Schedule 3 to the 2016 Act.
2. The Application comprised the following:
  - i) copy private residential tenancy agreement between the Parties;
  - ii) copy Notice to Leave in terms of Ground 12, the tenant has been in rent arrears for three or more consecutive months, together with proof of sending;
  - iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Aberdeen City Council being the relevant local authority and
  - iv) rent statement showing rent arrears starting in February 2022 and no rent paid since January 2025.
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the “CMD”) was fixed for 25 March 2026 at 10.00 am by telephone conference. The CMD was intimated to the Parties and, in particular, to the Respondent by Sheriff Officer service on 10 February 2026.

## **CMD**

4. The CMD took place on 25 March 2026 at 10.00 by telephone conference. The Applicant, Mr. Paterson, was present and was unrepresented. Mr. Ledinski, the Respondent, was not present and was not represented. He did not submit written representations. Mr. Paterson advised the Tribunal that he had spoken with Mr. Ledinski and had made him aware of the CMD. Accordingly as Mr. Ledinski had been given notice both by Sheriff Officers and by Mr. Paterson, the Tribunal was satisfied that he was aware of the proceedings and so proceeded in his absence.

5. Mr. Paterson confirmed that an Order for eviction is sought. He explained that the Property is his only rental property and that it had previously been his home. He stated that no rent has been paid since January 2025, and that, in spite of giving Mr. Ledinski advice to seek assistance from the local authority and advising him to apply for benefits, Mr. Ledinski has made no payments.
6. With regard to Mr. Ledinski, Mr. Paterson stated that, as far as he is aware, Mr. Ledinski is aged around late forties/early fifties, is not in employment and is separated from his wife. Although, the Property is let to Mr. Ledinski alone, Mr. Paterson understands that another person may be residing there. Mr. Paterson stated that he is not aware of any serious health complaints affecting Mr. Ledinski.

### **Findings in Fact**

7. From the Application and the CMD, the Tribunal made the following findings in fact: -
  - i) There is a private residential tenancy of the Property between the Parties;
  - ii) The correct statutory procedures have been carried out;
  - iii) The Respondent has been in rent arrears since February 2022, being more than three consecutive months;
  - iv) The Respondent stopped paying rent in January 2025;
  - v) The Respondent has not opposed the Application.
  - vi) The Respondent is a single person with no dependents residing with him at the Property;

### **Rule 17 (4) of the Rules**

8. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “*may do anything at a case management discussion .....including making a decision*” . The Tribunal took the view that it had sufficient information to make a decision and so proceeded to determine the Application.

## **Issue for the Tribunal**

9. The issue for the Tribunal was to determine whether or not to grant the Order sought.
10. The Ground on which the Application proceeds is Ground 12 which states: *“It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.(2)..(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.”*
11. Tribunal was satisfied that the Ground has been met, that the Respondent had been made aware of the consequences of his failure to pay rent, that he had been given advice in respect of state assistance. The Tribunal had no evidence that the rent arrears had accrued wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
12. Therefore, the statutory ground and procedure being established, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness and so proceeded to determine the Application.

## **Decision and Reasons for Decision**

13. The Tribunal must establish, consider and properly weigh the “whole of the circumstances in which the application is made” (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession.

14. The Tribunal had regard to the facts that the Respondent has been in arrears for over four years and has not paid any rent in over a year. The Tribunal noted that the Respondent does not oppose the Application and has not given any reason for his continued failure to pay rent. The Tribunal took the view that the Respondent's conduct in respect of failure to pay rent has rendered it untenable for him to continue as a tenant in the Property. The Tribunal found that the Applicant is entitled to receive payment of rent and that this entitlement outweighs the Respondent's rights to remain in the Property. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction Order.

15. This decision is 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.**

Karen Moore

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**Legal Member/Chair**

**Date: 25/03/2026**