



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Property at 71 Glendale Mews, Union Glen, Aberdeen, AB11 6FP (“the Property”)

Parties:

Mr Andrew Jessiman, 55 Cromwell Road, Aberdeen, AB15 4UE (“the Applicant”)

Ms Peace Smart, Mr Uriel Odogwu, 71 Glendale Mews, Union Glen, Aberdeen, AB11 6FP; 71 Glendale Mews, Union Glen, Aberdeen, AB11 6FP (“the Respondents”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

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.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and Ground 12 of schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave, rent statement, correspondence with the Respondents and section 11 notice were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 18 May 2026 at 2pm and they were required to participate.
3. The CMD took place on 18 May 2026. The Applicant participated. The Respondents did not participate. A related application for a payment order under reference CV/25/3855 was also discussed.

Summary of Discussion at CMD

4. Mr Jessiman told the Tribunal that he last drove past the property about a week ago and there was some evidence that the Respondents are still living there. Windows were open and a hose from a tumble drier was hanging out of the kitchen window. His last contact with the Respondents was in April 2026. He received an email from them asking for a letter confirming that Mr Odogwu is a joint tenant. Ms Smart told him that she was getting assistance with benefits and housing and required the letter as evidence as there was an issue with the tenancy agreement. The rent arrears are now £8655 with no payments since September 2025 when a payment of £90 was received. In response to questions about compliance with the Rent Arrears Pre Action Protocol, Mr Jessiman said that he had issued the standard pre action letter in July 2025, in addition to the other emails submitted with the application with details of advice agencies. The Legal Member noted that Ms Smart had previously told Mr Jessiman that she has no recourse to public funds and was not entitled to benefits to cover her rent, after losing her job. Mr Jessiman confirmed that this is what he was told. Ms Smart had worked as an auxiliary nurse. Her contract had unexpectedly not been renewed. He does not whether Mr Odogwu is working and there have been no payments or any further contact since the email in April. He provided the required letter at that time.
5. In response to questions from the Tribunal Mr Jessiman said that he believes that there are three children under the age of 10 living in the property with the Respondent. He has no further information about them. He also confirmed that the rent arrears are causing financial problems for his family. He has a mortgage and other expenses in relation to the property with no rental income to cover these costs. In due course he hopes that his son will move into the property if he and his wife decide to sell their family home for financial reasons.

Findings in Fact

6. The Applicant is the owner and landlord of the property.
7. The Respondents are the tenants of the property in terms of a private residential tenancy agreement.
8. The Respondent is due to pay rent at the rate of £795 per month.
9. The Respondents has been in arrears of rent since July 2025, and no payments have been made by the Respondents since September 2025.
10. The Respondents currently owe £8655 in unpaid rent.
11. The Applicant served a Notice to leave on the Respondent on 6 November 2025.
12. The Applicant issued correspondence in compliance with the rent arrears pre action protocol.

13. The Respondents reside at the property with three children.
14. The Respondents current employment status and entitlement to benefits is unknown. They previously told the Applicant that they have no recourse to public funds.
15. The Applicants have a mortgage over the property, and the lack of rental income is causing financial difficulties.

Reasons for Decision

16. The application was submitted with a Notice to Leave dated 6 November 2025. The Applicant submitted a copy of an email to the Respondents dated 11 November 2025 and also submitted evidence that it was hand delivered to the property on 6 November 2025. The Notices states that an application to the Tribunal is to be made on ground 12, rent arrears over three consecutive months. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
17. Section 51(1) of the 2016 Act states, “The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”
18. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states “(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in 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.”
19. Sub-Paragraph (4) states, “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 Minister in regulations.” Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant’s rights in relation to eviction proceedings and how the tenant can access information and advice.

20. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Respondents currently owe the sum of £8655 in unpaid rent and that they have been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Part 1 of Ground 12 is therefore established.
21. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
- (a) The Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant submitted copies of emails sent to the Respondent with information about advice agencies and confirmed that the standard pre action letter was also issued in July 2025.
 - (b) There is no available information or evidence to suggest that the arrears are attributable to a delay or failure in the payment of a relevant benefit. The Respondents have recently told the Applicant that they are getting assistance in relation to rent and housing but previously told him that they have no recourse to public funds and are not entitled to state benefits.
 - (c) The Respondents did not participate in the CMD or notify the Tribunal whether the application is opposed.
 - (d) The arrears are substantial and are increasing. No payments have been made since September 2025, and the lack of rental income is causing financial issues for the Applicant.
22. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act that ground 12 has been established. For the reasons outlined in paragraph 21, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

23. The Tribunal determines that an eviction order should be granted against the Respondents.

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.

Josephine Bonnar

Josephine Bonnar, Legal Member

18 May 2026