



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/5094

Re: Property at 183 Harris Drive, Tillydrone, Aberdeen, AB24 2AF (“the Property”)

Parties:

Hillcrest Enterprises, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)

Mr Colin David Mair, 183 Harris Drive, Tillydrone, Aberdeen, AB24 2AF (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr A Khan (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.

Background

1. This is a Rule 109 application whereby the Applicant is seeking an eviction order under ground 12. The Applicant representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 18th March 2022 at a monthly rent of £571.76, rent increase notices, pre-action correspondence, a notice to leave with evidence of service, a section 11 notice with evidence of service, and a rent statement.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officer on 6th May 2026.
3. By email dated 12th May 2026, the Applicant lodged an amended rent statement showing arrears in the sum of £9301.86.

The Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference on 11th June 2026. Ms Callaghan, Paralegal, represented the Applicant. The Respondent was not in attendance. The start of the CMD was delayed to allow the Respondent to attend. The Respondent did not attend.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
6. Ms Callaghan said the last contact with the Respondent was on 10th April 2026. The Applicant attempted to make contact at the end of May 2026 without success. Arrears arose in May 2023 and have continued to rise. The Applicant has issued pre-action correspondence. The Applicant has referred the Respondent to their tenancy sustainment and welfare team, without any success. The Respondent entered into sequestration, and a previous sequestration credit of £3285.30 was applied to the Respondent’s account on 6th January 2025. This sum is not included in the outstanding balance. The Applicant understands that the Respondent no longer engages with the team that assisted him with the sequestration.
7. On 2nd March 2026, the Respondent informed the Applicant that he could pay the rent, but he saw no point as eviction proceedings had commenced. The Respondent was advised to pay his rent and offered assistance. The Applicant has contacted the Respondent to advise him of the arrears and to offer assistance by various means, such as email, text and telephone. The Applicant is sympathetic to the Respondent’s situation, but the arrears continue to rise.
8. Ms Callaghan said the Applicant provides mid-market rental accommodation. The rent is discounted compared to open market rent. The Respondent’s arrears are the highest in the area and comprise 38.27% of the total arrears for the area. This has a significant impact on the services provided by the Applicant, including investment in services and new properties. It can also lead to an increase in the rent paid by other tenants. All income is reinvested by the Applicant.
9. Ms Callaghan said the Respondent is 64. He is self-employed and is not believed to be in receipt of benefits. The Respondent has a son who is at least 18 years old, who lives at the Property. No further details are available about the Respondent or his son.

Findings in Fact and Law

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- (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 18th March 2022 at a monthly rent of £571.76.
- (ii) Rent has increased annually.
- (iii) The Applicant has served a Notice to Leave upon the Respondent.
- (iv) The Respondent has accrued rent arrears.
- (v) The Respondent has been in rent arrears for three or more consecutive months.
- (vi) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
- (vii) The Applicant has complied with the pre-action protocol.
- (viii) It is reasonable to grant an eviction order.

Reasons for Decision

11. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if, for three or more consecutive months, the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that Ground 12 has been established.
12. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the Respondent was in rent arrears as a result of a delay or failure in the payment of a relevant benefit.
13. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. The Tribunal was satisfied that the Applicant had complied with the pre-action protocol.
14. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
15. The Respondent has been in arrears since May 2023. He is no longer paying rent. The arrears are substantial and rising. The Respondent did not see fit to attend the CMD or make any representations to assist the Tribunal in considering reasonableness. The Tribunal considered it likely that, if no order

was granted, the arrears would continue to rise. The Tribunal considered that the tenancy is not sustainable.

16. The Tribunal took into account the information provided regarding the Applicant. The arrears and failure to pay rent are likely to impact the Applicant's ability to carry out its duties associated with providing mid-market rental properties. The Applicant is entitled to expect tenants to pay rent.

17. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend or make representations to the Tribunal to indicate why an order should not be granted, and the Respondent failed to do so. The Tribunal considered it was reasonable to grant the order sought.

Decision

18. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 14th July 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.

H Forbes

Legal Member/Chair

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11th June 2026
Date