



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/25/4033

Re: Property at 75 1.2 High Street, Dundee, DD2 3AT (“the Property”)

Parties:

Mr David Scott, 6 Linmill, South Queensferry, EH30 9ST (“the Applicant”)

Mr Dean Simpson, 75 1.2 High Street, Dundee, DD2 3AT (“the Respondent”)

Tribunal Members:

Lauren Rae (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction should be granted against the Respondent in favour of the Applicant.

Background

1. By application dated 19 September 2025, the Applicant sought an order for eviction under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”), Ground 12 of Schedule 3 (rent arrears for three consecutive months).
2. The application was accompanied by:-
 - Private Residential Tenancy dated 1 September 2019
 - Copy Notice to Leave dated 24 July 2025
 - Email to Respondent attaching the Notice to Leave dated 24 July 2025
 - Section 11 notice dated 19 September 2025
 - Rent arrears statement as at 3 September 2025.
 - Copy pre-action correspondence issued to tenant

3. The application was accepted for determination on 14 January 2026 and a case management discussion assigned for 19 May 2026 at 10am via teleconference.
4. The application was amended by the Applicant on 15 April 2026 due to an error in the Respondent's designation. The amended application and notification of the CMD was served on the Respondent by Sheriff Officer on 28 April 2026 as confirmed by the execution of service lodged in process.
5. Prior to the CMD, the tribunal requested an up-to-date rent arrears statement, which was provided by the Applicant's letting agent on 18 May 2026.

Case Management Discussion

6. The CMD proceeded on 19 May 2026. The Applicant was represented by his letting agent, Mr May. There was no appearance by or on behalf of the Respondent.
7. The tribunal explained the purpose of the CMD and the power of the tribunal to make a decision.
8. Mr May invited the tribunal to grant an eviction order on the basis that ground 12 of Schedule 3 was established, namely the Respondent was in rent arrears for a period of more than 3 consecutive months and it was reasonable to grant the order. Mr May's position was that there was a long history of rent arrears. Mr May advised the tribunal that the rent arrears had continued to increase post the application to the Tribunal as evidenced by the updated rent arrears statement. Mr May advised that the Respondent was in receipt of housing benefit in the sum of £325 per month which was paid to the letting agent but that no top up payments were made by the Respondent so the arrears continued to rise. Mr May explained that aside from the arrears, there were no conduct related issues with the Respondent other than minor cleanliness issues.
9. During questioning from the tribunal, Mr May advised that the rent arrears had been cleared in full in February 2025 but had increased. At the time of service of the notice to leave the arrears were £175 and had accumulated since March 2025. The tribunal enquired why the Applicant appeared to have tolerated much higher arrears for a long period of time but had served notice when the arrears were relatively modest. Mr May advised that the Applicant's patience had run out. Mr May advised that the Respondent was in receipt of housing benefit but he did not know whether he was entitled to any additional assistance. He did not believe the Respondent to be in employment and he lived alone, the tenancy having previously been in the name of the Respondent and another relative before being transferred solely into the Respondent's name. Mr May did not know if the Respondent had any health issues or whether he had somewhere else to live. There was very little communication with the Respondent. Mr May advised that the Applicant was in employment and owned one other property.

Findings in Fact

10. The Applicant is the heritable proprietor of the Property registered in the Land Register of Scotland under title number ANG45485
11. The Applicant and the Respondent entered into a private residential tenancy agreement dated 1 September 2019.
12. The initial monthly rent was £325 which was increased in August 2024 to £360 and in August 2025 to £550.
13. The Respondent lives alone and is not in employment.
14. A valid notice to leave was served on the Respondent via email on 24 July 2025.
15. As at the date of the notice to leave the rent arrears were £175.
16. As at the date of the CMD, the rent arrears had increased to £2300.
17. The Applicant served a section 11 notice under the Homelessness etc (Scotland) Act 2003 on the local authority by email on 19 September 2025.
18. The Respondent has been in rent arrears for a period of more than 3 consecutive months.
19. The rent arrears are not due to a failure or delay in the payment of a relevant benefit.
20. The Applicant has complied with the pre-action requirements.

Reasons for Decision

21. This is an undefended application for eviction on the basis of ground 12 of schedule 3 of the 2016 Act. A valid notice to leave had been served on the Respondent. The Tribunal was satisfied that it had enough evidence before it to make a decision and the procedure had been fair.
22. The tribunal concluded that ground 12 of schedule 3 of the 2016 Act had been made out. As at the date of the notice to leave, the Respondent had been in arrears of rent for a period of more than 3 months. The arrears have not accrued as a result of any failure or delay in the payment of a relevant benefit. As at the CMD, the arrears had risen to £2300 and despite attempts by the Applicant's agent to engage with the Respondent, he had failed to address the arrears. Based on the information available to the tribunal, the tribunal concluded that it was reasonable to grant an order for eviction.

Decision

The tribunal grants the order against the Respondent in favour of the Applicant for eviction under ground 12 of schedule 3 of the 2016 Act.

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.

Lauren Rae

Legal Member/Chair

Date: 26th May 2026