



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 19 of the Housing (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/4666

Re: Property at 3B Lord Gambier Wharf, Kirkcaldy, Fife, KY1 2SH (“the Property”)

Parties:

Jane Waters, 81 Barley Lane, Hastings, East Sussex, TN35 5NT (“the Applicant”)

John Ness, 3B Lord Gambier Wharf, Kirkcaldy, Fife, KY1 2SH (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.

Background

[2] The Applicant seeks an Eviction Order under Section 19 of the Act on the basis that grounds 11 and 12 of Schedule 5 of the Act are established. The Application was accompanied by a copy of the relevant tenancy agreement; the relevant Form AT6 with Notice to Quit and evidence of service; the relevant notice under Section 11 of the *Homelessness (etc) (Scotland) Act 2003* and evidence of compliance with *The Rent Arrears pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020* and rent statements.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (“CMD”) by conference call at 10am on 5 May 2026. The Applicant was represented by Ms Capaldi, trainee solicitor. The Respondent was neither present nor represented. The Application had been competently served on the Respondent and so the Tribunal decided to proceed in their absence.

[4] The Tribunal noted that the Respondent’s rent arrears were now in the sum of £7,250.00. Ms Capaldi explained that the Respondent was thought to live alone and had been reluctant to engage with the Applicant or her agents. The Applicant herself was being caused financial harm by the on-going non-payment of rent.

[5] Having heard from parties, the Tribunal made the following findings in fact.

Findings in Fact

- 1. The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent on a Short-Assured Tenancy Agreement within the meaning of the Act;*
- 2. The Respondent fell into rent arrears;*
- 3. The Applicant competently served a notice under Section 19 of the Act on the basis that grounds 11 and 12 of Schedule 5 of the Act were established;*
- 4. Grounds 11 and 12 relied on in the Form AT6 were established at the date of service and remain established.*
- 5. The sum of £7,250.00 is resting owed as rent arrears by the Respondent to the Applicant.*
- 6. The Applicant has complied with The Rent Arrears pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 and Section 11 of the Homelessness (etc) (Scotland) Act 2003,*
- 7. The Respondent has not engaged with the Tribunal process.*

Reasons for Decision

[6] Having made the above findings in fact, the Tribunal determined that grounds 11 and 12 of Schedule 5 of the Act were established. It was also reasonable to grant the Eviction Order. The Tribunal granted the Application.

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.

Andrew McLaughlin

Legal Member/Chair

5 May 2026

Date