



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/25/5147

Re: Property at 53 Flat D Union Street, Montrose, DD10 8PZ (“the Property”)

Parties:

Mr Peter Salmon, Mrs Helen Salmon, Mains of Logie Farmhouse, Mains of Logie, Montrose, DD10 9JR (“the Applicant”)

Ms Melea Lewis, 53 Flat D Union Street, Montrose, DD10 8PZ (“the Respondent”)

Tribunal Members:

Hilary MacAndrew (Legal Member) and Mary Lyden (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 be granted

1) Background

- 1.1 By Application dated 27 November 2025 the Applicant seeks an order for eviction relying on Ground 12 (rent arrears for three or more consecutive months) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The application was conjoined with an application seeking an order for payment in respect of rent arrears under reference FTS/HPC/CV/25/5150.
- 1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 16 December 2025.
- 1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 8 May 2026.

1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-

- Private residential tenancy agreement
- Notice to Leave
- Section 11 Notice to Local Authority
- Rent statement
- Updated Rent Statement
- Pre Action Requirement correspondence

2) The Case Management Discussion

2.1 The CMD took place by tele conference on 8 June 2026 at 10am. The Tribunal delayed starting for 5 minutes in case the Respondent was late. The Applicant was represented by Ms Allan of Harper Macleod LLP. The Respondent did not take part. The Respondent did not attend.

2.2 Ms Allan confirmed that the property is 53 Flat D Union Street, Montrose, DD10 8PZ

2.3 Ms Allan confirmed that the parties entered into a Private Residential Tenancy Agreement which commenced on 19 March 2018 at a monthly rent of £470.

2.4 At the time of submitting the Notice to Leave the arrears were £6,110. The amount of arrears outstanding at the date of the application was £7,050.

2.5 Ms Allan provided a current rent statement showing an increase in the amount of arrears to £10,340. The Tribunal noted that no rent had been paid by the Respondent since 19 August 2024.

2.6 Ms Allan was able to talk about the personal circumstances of the Applicant and the Respondent. The Respondent is single. There are no known dependents. The Respondent had a good relationship with the Applicant who was aware that the Respondent had indicated difficulties with benefits but nonetheless was prepared to work with her. There had been communication between the Respondent and the Applicant in relation to a central heating boiler which had been resolved however the Respondent would not communicate with the Applicant regarding the outstanding rent. Ms Allan's firm contacted the Respondent directly on 10 June 2025 but received no response. A copy of that correspondence is produced as part of the pre-action requirement correspondence. The Applicant had attempted to visit the property whilst the issue of rent arrears was ongoing but the Respondent had indicated through the Applicant and Respondent's usual means of communication which was WhatsApp that she did not wish the Applicant to visit. The Applicant has no other rental properties. This is the only rental property leased by him. The Applicant has a mortgage over the property and the absence of rent is having an impact on the Applicant's financial position. The Applicant allowed the rent

arrears to continue for a considerable time on the basis that the Applicant and Respondent had formerly enjoyed a good relationship.

- 2.7 Ms Allan was not aware of the Respondent having any disability issues which would prevent communication.
- 2.8 Rule 17 of the First-Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 provides that the Tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a hearing.

3) Findings in Fact and Law

- 3.1 The Applicant and the Respondent entered into a Private Residential Tenancy Agreement in respect of the property which commenced on 19 March 2018.
- 3.2 The monthly rent due under the Private Residential Tenancy is £470 per month.
- 3.3 The rent arrears due as at the date of the Notice to Leave were £6,110.
- 3.4 The rent arrears due at the date of raising the proceedings were £7,050.
- 3.5 The rent arrears due at the date of the CMD were £10,340.
- 3.6 The Applicant complied with the pre-action requirements
- 3.7 Ground 12 in Schedule 3 of the 2016 Act has been established
- 3.7 It is reasonable to grant an order for eviction

4) Issue For The Tribunal

- 4.1 The issue for the Tribunal is to determine whether or not to grant the order sought.
- 4.2 The ground on which the Application proceeds is ground 12 which states:

“(1) 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 the 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.”

- 4.3 The Tribunal was satisfied that the ground had been met and that the Respondent had been made aware of the consequences of their failure to pay rent.
- 4.4 Therefore, the statutory ground and procedure being established, the issue for the Tribunal was to determine if it is reasonable to grant the order.

5) Decision and Reasons for Decision

- 5.1 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah 1943 SC 245* whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the Application was made.
- 5.2 The Tribunal had regard to the fact that the Respondent had been in arrears since January 2025. The Tribunal's view is that the level of arrears being £10,340 combined with the length of time which arrears have existed leads to it being untenable for the Respondent 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 right to remain in the Property. Accordingly, the Tribunal was satisfied that it is reasonable to issue an Eviction Order.

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.

Hilary MacAndrew

Hilary MacAndrew

Legal Member/Chair

8th June 2026

Date