



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/2391

Re: Property at Flat 15, Milldale Mews, 68-72 Auchmill Road, Bucksburn, Aberdeen, AB21 9LQ (“the Property”)

Parties:

Mrs Mary Ross, Birkwood Lodge, Delgaty, Turriff, AB53 5TD (“the Applicant”)

Ms Morounkeji Fawehinmi, Mr Yusuf Fawehinmi, Flat 15 Milldale Mews, 68-72 Auchmill Road, Bucksburn, AB21 9LQ (“the Respondent”)

Tribunal Members:

Craig Chisholm (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of Morounkeji Fawehinmi)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted.

Background

1. By application dated 4th June 2025, Mr Graeme Ross sought an order in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (procedure) Regulations 2017 (“the procedure rules”). The Application was amended on 28th August 2025 in that the Applicant, Mrs Mary Ross, sought an order in terms of rule 109 of the procedural rules.
2. On 11th November 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
3. A Case Management Discussion (CMD) was set to take place on 1st May 2026, and appropriate intimation of that hearing was given to all parties.

4. The application was heard together with a conjoined application involving the same parties for a payment order under Tribunal reference FTS/HPC/CV/25/1896.

The Case Management Discussion

5. The CMD took place on 1st May 2026 *via* telephone conference call. The Applicant was represented by Ms Card of Martin & Co Aberdeen. The Applicant had provided a letter to the Tribunal authorising Martin & Co Aberdeen to act as her legal representative. Mr Yusuf Fawehinmi was personally present. Morounkeji Fawehinmi was not present or represented at the CMD.
6. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
7. The tribunal asked various questions of the Applicant's representative and Mr Yusuf Fawehinmi with regards to the application.
8. The Applicant's representative confirmed that the Applicant wished for the order for payment to be made.
9. Mr Yusuf Fawehinmi confirmed he was not opposed to the granting of eviction and accepted there were arrears.

Findings in Fact

10. The Applicant is the registered owner of the Property.
11. The Applicant is the registered Landlord of the Property together with her husband, Mr Graeme Ross.
12. The Applicant's husband, Mr Graeme Ross and the Respondent are respectively the landlord and tenant who entered into a Private Residential Tenancy Agreement with the knowledge and consent of the Applicant in terms of the 2016 Act for the Property commencing 5th May 2023.
13. The Applicant served a Notice to Leave (NTL) on the Respondent's on 1st May 2025 as required by the 2016 Act. This was served *via* email. The NTL informed the Respondent that they wished to seek recovery of possession. The NTL was correctly drafted and gave appropriate periods of notice as required by law.
14. The NTL set out one of the grounds contained within Schedule 3 of the 2016 Act, namely ground 12 (that the tenant had been in arrears of rent for three or more consecutive months). Arrears at the date of service of the NTL were £4,470.00.
15. The initial agreed monthly rental was £685 per month. It had not been increased.

16. Arrears have accrued since around May 2024 and at the date of the lodging of the application arrears amounted to £4,555.58.
17. The amount of arrears at the date of the CMD were £7,595.58.
18. Appropriate accounting had been provided in respect of the outstanding rent as at the date of the application and at the date of the CMD with the Tribunal.
19. The basis for the order for possession on ground 12 was thus established.

Reason for Decision

20. The order for possession sought by the Applicant was based on grounds specified in the 2016 Act and properly narrated in the NTL served on the Respondent. The Tribunal was satisfied the NTL had been served in accordance with the terms of the 2016 Act and the Applicant was entitled to seek recovery of possession based on the grounds used.
21. The Tribunal accepted the evidence presented on behalf of the Applicant with regards to rent arrears. A rent statement was produced which set out the history of arrears. Since May 2024 the Respondent had failed to pay the full sum due in rent and significant arrears had accrued.
22. The Tribunal was satisfied that the Respondent has been in arrears for a period far in excess of three consecutive months. Mr Yusuf Fawehinmi accepted the arrears were due and had failed to maintain payments. He confirmed attempts were made to enter into payment plans, however, he and his wife could not maintain payments due to him losing his source of income and having other significant expenses to pay.
23. The Tribunal accepted evidence that Applicant, *via* Martin & Co had made appropriate attempts to encourage the Respondent to deal with the arrears with payment plans offered, agreed and not complied with.
24. The Tribunal considers the Applicant has complied with the requirements of the 2016 Act and that ground 12 of Schedule 3 of the 2016 Act has been established. For the reasons outlined above, the Tribunal were satisfied it would be reasonable to grant the order for eviction.

Decision

25. The ground for eviction based on rent arrears was accordingly established.
26. The Tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson*, [1942 2 All ER 653 at 655, where Lord Green MR said:

“In considering reasonableness... it is, on my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusions given such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account.”

27. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
28. In this case, the Tribunal finds that it is reasonable to grant the order. The balance of reasonableness in this case is weighted towards the Applicant in this application for the above and below noted reasoning.
29. The level of arrears is extremely high, and it is unlikely that the arrears will ever be repaid. Mr Yusuf Fawehinmi confirmed he is working but would need considerable time before any payment plan could be entered into to repay the arrears. Mr Yusuf Fawehinmi confirmed there are no health concerns or disabilities. Mr Yusuf Fawehinmi did not provide sufficient explanation for the failure to fully meet the rental obligations.

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.

Craig Chisholm

1st May 2026

Legal Member/Chair

Date