

Housing and Property Chamber
First-tier Tribunal for Scotland



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/26/0699

Property : 83 Lochlea Drive, Ayr KA7 3DS ("Property")

Parties:

Stuart McKinlay, 1 Kelso Avenue, Paisely PA2 9JE ("Applicant")

Umesh Sapkota, 83 Lochlea Drive, Ayr KA7 3DS ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined to grant an order for possession of the Property.

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Tenancy Agreement which commenced on 15 February 2025 ("Tenancy Agreement"); Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 24 December 2025 ("Notice to Leave"); Royal Mail proof of delivery on 27 December 2025; statement of rent arrears indicating arrears of £3400 at 24 December 2025; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 and evidence of compliance with the pre-action protocols. The Application was served on the Respondent by sheriff officer on 4 June 2026. On 18 June 2026 the Applicant lodged an updated statement of arrears showing arrears of £7,132.26 at 15 June 2026.

Case Management Discussion ("CMD")

A CMD took place before the Tribunal on 8 July 2026 by teleconference. The Applicant was represented by Gordon McKinlay. The Respondent was not in attendance. Mr McKinlay told the Tribunal that the last contact which the Applicant had with the Respondent was in January 2026. He said that the applicant had attempted to contact the Respondent by email, whatsapp and by visiting the Property but received no response. He said that he had visited the property and spoken with a neighbour who

confirmed that the Respondent continued to occupy the Property. Mr McKinlay told the Tribunal that the Respondent lives in the Property with his wife and daughter who is aged around 10 and attends the local primary school. He said there are no health issues in the family. He said that the Respondent had opened a shop in Ayr but the business did not work out. He said he understood the Respondent is working but he did not know where or in what employment. He said that there had been no payments towards the arrears and the balance due was £7,132.26.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement which commenced on 15 February 2025.
2. The Notice to Leave was served by recorded delivery post on 27 December 2025.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. The Applicant had complied with the pre-action protocol prescribed by the Scottish Ministers.
5. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. In the Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months. The Tribunal considered the statement of rent arrears provided and determined that ground 12 had been established. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

Decision

The Tribunal grants an order for possession of the Property.

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.

**Joan Devine
Legal Member**

Date : 8 July 2026

