

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/25/2566

Re: Property at 107 Sinclair Drive, Cowdenbeath, Fife, KY4 9RG (“the Property”)

Parties:

Ms Kari Ramsay, 15 Alder Drive, Perth, PH1 1ER (“the Applicant”)

Mr Ross Donoghue, Nicola O'Donnell, 107 Sinclair Drive, Cowdenbeath, Fife, KY4 9RG (“the Respondent”)

Tribunal Members:

Yvonne McKenna (Legal Member) and Angus Lamont (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 be granted.

Background

1. On 13 June 2025 the Applicant’s representative lodged an application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the Property using Grounds 11 and 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - Copy Private Residential Tenancy Agreement (‘PRT’) showing a commencement date of 21 December 2020.
 - Copy Notices to Leave dated 17 April 2025.
 - Copy proof of service of Notices to Leave dated 18 April 2024 (signed for recorded delivery mail).
 - Section 11 Notice.
 - Photographs of the back garden of the Property.

- The application was served on the Respondent by Sheriff Officer on 23 January 2026.
- The application for Eviction was conjoined with an application for Payment under Chamber reference FTS/HPC/CV/25/2567.

The First Case Management Discussion (11 March 2026)

3. The Application called for a Case Management Discussion (“CMD”) by conference call on 11 March 2026. The Applicant was represented by Ms Margaret Thomson, solicitor James Thomson & son. The Respondent was absent.
4. The tribunal enquired about the current position regarding the tenant. Ms Thomson said that the tenants remained in the Property and were still not paying any rent.
5. The tribunal asked about the position regarding the ownership of the Property and referred Ms Thomson to section 45 of the Private Housing (Tenancies) (Scotland) Act 2016. Ms Thomson said that the ownership of the Property was transferred into the Applicant’s name and confirmed that she would be able to provide verification of that to the Tribunal. The original lease had been between the Respondent and the Applicant’s father Mr Alan Kibble who had passed away.
6. Following the first CMD, on 22 August 2026, the Applicant produced confirmation that the title to the Property had been transferred into the name of the Applicant. In addition, an updated rent statement was produced.

The Second CMD (3 July 2026)

7. The Application called for a second CMD on 3 July 2026 by conference call. The Applicant was again represented by Ms Margaret Thomson, solicitor James Thomson & son. The Respondent was absent.
8. Mrs Thomson said that the Respondent was still living in the Property and had not paid any rent since 21 November 2024. She sought an Order for Eviction and a Payment Order.
9. The Property had previously belonged to the Applicant’s father who is now deceased. The Applicant wishes to sell the Property. Since the Property was transferred to her, she has received no rental income from the Respondent. She is not a commercial landlord. This is the only property she owns which is being rented out.
10. The Applicant’s agents had written to the Respondent requesting payment prior to making the Application. Nothing had materialised as a consequence.
11. The Respondent resides at the Property together with their two children. One of the children is 19 years of age. The youngest child is attending secondary school. There are three people residing in the Property who are in gainful employment. None of the rental received in the past was by benefit payments.

12. Neighbours have confirmed to the Applicant that the garden continues to be neglected with rubbish strewn around.

Findings in Fact

13. The Tribunal made the following findings in fact:

- (i) The parties entered into a PRT which commenced on 21 December 2020;
- (ii) In terms of Clause 8 of the PRT the Respondent was due to pay rent to the Applicant in the sum of £550 per calendar month payable in advance;
- (iii) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 12 of Schedule 3 to the 2016 Act, and which was served on 18 April 2025;
- (iv) On 18 April 2025 the Respondent was in rent arrears over three consecutive months;
- (v) The Respondent has been in continuous arrears of rent since December 2024;
- (vi) The Respondent is in arrears of rent amounting to £14,700 at the date of the second CMD
- (vii) No rent arrears have accrued as a consequence of delay or failure of payment of a relevant benefit.
- (viii) The Applicant's solicitors wrote to the Respondent requesting payment of the arrears of rent in advance of the Application being made to the Tribunal.
- (ix) In terms of Clause 30 of the PRT, the Respondent undertook to maintain the garden of the Property in a reasonable manner.
- (x) The garden ground of the Property is not being maintained in a reasonable manner.
- (xi) The Respondent has not opposed the application.

Reasons for Decision

14. *Section 51 of the 2016 Act states as follows:*

51 (1) The First-tier Tribunal is to 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.

(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

15. Ground 11 of Schedule 3 to the 2016 Act states as follows:

- 11(1) It is an eviction ground that the tenant has failed to comply with an obligation under the tenancy.*
(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
(a) the tenant has failed to comply with a term of the tenancy, and
(b) the Tribunal considers it to be reasonable to issue an eviction order on account of that fact.
(3) The reference in sub-paragraph (2) to a term of the tenancy does not include the term under which the tenant is required to pay rent.

16. Ground 12 of Schedule 3 to the 2016 Act states as follows:

- (1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*
- (2) (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 that 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.
- (5) For the purposes of this paragraph—*
(a) references to a relevant benefit are to— (i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971), (ii) a payment on account awarded under regulation 91 of those Regulations, (iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent, (iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,
(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.
- (6) Regulations under sub-paragraph (4)(b) may make provision about—*
(a) information which should be provided by a landlord to a tenant (including

information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),
(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,
(c) such other matters as the Scottish Ministers consider appropriate.

17. The tribunal is satisfied in terms of the established Findings in Fact that Grounds 11 and 12 are satisfied.

18. The tribunal then has to decide if it is reasonable to grant the eviction order. The tribunal has exercised its discretion in applying the facts, to decide if it is reasonable to grant the order. The tribunal considers that the amount of the arrears, as well as the period of time that the arrears have continued to accrue, together with the fact that the Respondent did not oppose the Application makes it reasonable to grant the 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.

Yvonne McKenna

Yvonne McKenna

Legal Member/Chair

3 July 2026

Date