



**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/26/1462

Re: Property at 72 Mount Pleasant Way, Kilmarnock, KA3 1HJ (“the Property”)

Parties:

Mr Anthony Smith, 8 Main Street, Dalry, KA24 5DH (“the Applicant”)

**Ms Alana Jones, 72 Mount Pleasant Way, Kilmarnock, KA3 1HJ (“the
Respondent”)**

Tribunal Members:

Robert MacDonald (Legal Member) and Elaine Munroe (Ordinary Member)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (Tribunal)
(in absence of the Respondent) determined that the provisions of paragraph 12
of Schedule 3 of the 2016 Act are met in this case and determined that it should
grant an order for recovery of possession.**

The Tribunal therefore made an Eviction Order under Section 51 of the 2016 Act.

In terms of Section 51(4) of the 2016 Act the private residential tenancy between the parties will end on 29th July 2026.

Background

1. The Applicant made an application dated 1st April 2026 for an Eviction Order under Section 51 of the 2016 Act and rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) (Rules and Procedures) 2017 (“The Rules”). The Applicant relied upon grounds 11, 12 and 14 of Schedule 3 of the Act as the grounds for eviction, namely that the Respondent had breached a term of the private residential tenancy agreement, that the Respondent has been in arrears of rent for three or more consecutive months, and that the Respondent has engaged in relevant anti-social behaviour.

2. The Application was accepted by the Tribunal as valid on 19th May 2026. It was referred to a Tribunal for a determination. A Case Management Hearing ("CMD") was set down to take place on 29th June 2026 by teleconference. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Intimation of the CMD was made on the Respondent by Sheriff officers on 29 of May 2026 by letterbox service.

Case Management Discussion

3. The CMD took place on 29th June 2026 at 2pm. Ms Dunlop, Solicitor, BTO Solicitors LLP represented the Applicant. There was no appearance on or on behalf of the Respondent.
4. The Tribunal had documents before it including: -
 - a. Form E application form;
 - b. A copy of the private residential tenancy agreement between the parties;
 - c. A copy of two Notices to Leave and proof of delivery of the said Notices on the Respondent by email on 13th November 2025 and 11th February 2026.
 - d. Copy Section 11 Notice in terms of the Homelessness Et (Scotland) Act 2003 and evidence of service on the Local Authority;
 - e. A rent statement to 11th July 2026.
5. The Tribunal heard submissions from Ms Dunlop on behalf of the Applicant.
6. Miss Dunlop advised the Tribunal that rent had not been paid by the Respondent since August 2025. The A rent account to 11th July 2026 was produced to the Tribunal showing that the current rent arrear amounted £5225.00. Ms Dunlop understood that the Respondent had been receiving some element of rent from the DWP but had not been making the payments over to Applicant. Ms Dunlop advised the Tribunal that the Respondent lived in the property by herself and had no dependent children. The Applicants letting agents had written to the Respondent In terms of the pre action protocol on rent arrears, but the Respondent had failed to engage with the Applicants representatives. Ms Dunlop advised the Tribunal that payment previously been made to the Applicant's letting agent. After the letting agents were changed in August 2025 no further payments were received from the Respondent.
7. Ms Dunlop advised the Tribunal that there were significant allegations of anti-social behaviour which had been made to the local authority and to the Applicants letting agents by at least two occupiers of the development which the let property forms part of. Documentation from East Ayrshire Council and

from the letting agent had been lodged with the Tribunal setting out the nature of the complaints received, namely excessive noise from music, banging doors and excessive ringing of the entrance buzzers. There was an allegation that the Respondent used communal electric points for her own appliances, and that there had been a fire in the property.

8. Ms Dunlop advised the Tribunal that the Respondent had not made contact with her office, but they had received contact from a charity who had indicated they were to assist the Respondent in clearing her belongings out of the property. She thought it likely that the Respondent had left the property, but no keys had been handed in. She asked the Tribunal to grant an order for eviction at the CMD.
9. The Tribunal adjourned the CMD to deliberate without the presence of the Applicants' agents. After a brief adjournment, the Tribunal resumed the CMD and confirmed the outcome.

Findings in Fact and Law

10. The Applicant is the landlord, and the Respondent is the tenant of the property in terms of a private residential tenancy agreement which commenced on 11 November 2024.
11. The Applicant's agents sent Notices to Leave Notices as defined by Section 62 of the 2016 Act to the tenant by email on 13th November 2025 and 11th February 2026.
12. The tenancy agreement made provision for services of such notices by email.
13. In terms of a Notice relying on Grounds 11 and 14, the Respondent was advised that an application might be submitted to the Tribunal after 14th March 2026.
14. In terms of a Notice relying on Ground 12, the Respondent was advised that an application might be submitted to the Tribunal after 16th December 2025.
15. A Notice in terms of Section 11 of the Homelessness Etc (Scotland) Act 2003 were sent on behalf of the Applicant to the Local Authority on 1st April 2026.
16. The Applicant has observed the pre action requirements and corresponded with the Respondent in relation to her rent arrears.
17. At the date this application was submitted to the Tribunal, the Respondent was in arrears of rent in the sum of £3800.00. As at the date of the CMD, the Respondent was in arrears of rent in the sum of £5225.00.

18. The Tribunal considered the Respondent's circumstances insofar as they were known to the Tribunal. She was believed to be in unemployed with no dependents living with her.
19. The Tribunal considered whether it was reasonable to make an Eviction Order on account of the information available to it which required the Tribunal to identify the factors relevant to issues of reasonableness to determine how much weight should be applied to them. The Tribunal noted that there were significant allegations against the Respondent in relation to antisocial behaviour. The Tribunal attached considerable weight to the extent of the arrears, and the fact that the Respondent had not opposed the application.
20. Having regard to the factors relevant to reasonableness, the Tribunal concluded that it was reasonable for an order for eviction to be granted.
21. The Tribunal was satisfied that the provisions of paragraph 12 of Schedule 3 of the 2016 Act have been met in this case.
22. The decision of the Tribunal was unanimous.

Decision

23. 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.

R MacDonald

Legal Member/Chair

Date: 29 June 2026