



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/25/2117

Re: Property at 6 Inshes Mews, Inverness, IV2 5HY (“the Property”)

Parties:

Dr Zuzana Claasen, 381 Nova Lubovna, Nova Lubovna, Slovakia (Slovak Republic) (“the Applicant”)

Miss Ewelina Wudzinska, Mr Remigiusz Ciciorra, 6 Inshes Mews, Inverness, IV2 5HY (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

In terms of section 54(1) of the 2016 Act, the private residential tenancy between the parties will end on 20 July 2026.

Background

- 1 This is an application 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 of Procedure 2017 (“the Rules”). The Applicant relied upon ground 12 of schedule 3 of the 2016 Act as the ground for eviction, stating that the rent account had been in arrears for three or more consecutive months.
- 2 The application was accepted and referred to a tribunal for determination. A case management discussion (“CMD”) was scheduled to take place on 15 December 2025

at 2pm. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondents by sheriff officers.

The CMD

- 3 The CMD took place by teleconference on 15 December 2025. Mr Jamieson of Highland Estate Agents represented the Applicant. The Respondents both joined the call. They were assisted by a Polish interpreter, Marius Flaza, who had been engaged personally by the Respondents. The tribunal advised that it would not be able to proceed with the CMD if an interpreter was required unless that interpreter had been arranged by the Tribunal, to ensure the interpreter was properly qualified and acting impartially. The tribunal noted that, whilst the first Respondent was able to speak English, she required the services of an interpreter having regard to the complex issues which may arise.
- 4 Having discussed with the parties, the tribunal determined to adjourn the proceedings. The tribunal had regard to the high level of arrears and considered it appropriate to assign a hearing, rather than a further case management discussion. The first named Respondent requested that the hearing be held in person.
- 5 The tribunal stated that it would be helpful if the Applicant could provide an updated rent statement in advance of the hearing, and if the Respondent could provide written submissions setting out their position on the application.
- 6 No written submissions were received from either party in advance of the hearing.

The hearing

- 7 The hearing took place at Inverness Civil Justice Centre on 19 June 2026 at 10am. Mr Jamieson represented the Applicant and was accompanied by a colleague. The Respondents were both in attendance, with their son as a supporter, and assisted by an interpreter engaged by the Tribunal. Both parties confirmed they had not submitted any additional submissions following the CMD.
- 8 The tribunal had the following documents before it:-
 - (i) Form E application together with supporting documents including private residential tenancy agreement between the parties, notice to leave and proof of delivery to the Respondents by recorded mail, notice under section 11 of the Homelessness etc (Scotland) Act 2003 and proof of delivery to the local authority, and rent statements.
 - (ii) Land Certificate confirming the Applicant's ownership of the property, and proof of her landlord registration.
- 9 As a preliminary matter the Respondents advised that they were no longer contesting the eviction order. They accepted the arrears and were prepared to move out of the property. They had spoken with the local authority and had been advised that the eviction order would assist them with their application for council housing. The

Respondents confirmed that they were not in employment, as the second named Respondent suffers from heart problems and the first named Respondent is her carer. The Respondents were both in receipt of universal credit. The Respondents made reference to various allegations of disrepair at the property but stated that they only raised these to protect any future tenants.

- 10 Mr Jamieson confirmed that the arrears balance now stood at £10,688.30. The Applicant was now receiving some payments of universal credit to the rent account. The Applicant was not planning on re-letting the property as it was likely the property would be repossessed by the mortgage lender.

Findings in fact and law

- 11 The Applicant is the owner and landlord, and the Respondents are the tenants, of the property in terms of a private residential tenancy agreement, which commenced on 25 March 2019.
- 12 The Applicant has given the Respondents a notice to leave within the meaning of section 62 of the 2016 Act. The notice to leave includes ground 12.
- 13 The Applicant gave the local authority a notice under section 11 of the Homelessness etc (Scotland) Act 2003 when making this application.
- 14 The rent payable under the said tenancy agreement is £850 per month.
- 15 In March 2020 the Respondents began to accrue rent arrears. The rent account has remained in arrears since March 2020.
- 16 The Respondents have repeatedly failed to make payment of the rent due. As at the date of this decision the balance of rent arrears is £10,688.30.
- 17 The rent arrears are not known to be due to any failure or delay in the payment of a relevant benefit.
- 18 The Applicant has engaged with the Respondents in accordance with the requirements of the rent arrears pre-action protocol.
- 19 The Respondents do not oppose the eviction order.
- 20 The Respondents have applied for rehousing with the local authority. The making of an eviction order will likely assist with their application.
- 21 The Respondents are both unemployed and in receipt of universal credit. The second named Respondent suffers with heart problems.
- 22 It is reasonable to make an eviction order.

Reasons for decision

- 23 Section 51 of the 2016 Act provides that *“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.”*
- 24 Section 52 of the 2016 Act goes on to state that *“an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.”* The tribunal had before it a copy of a notice to leave in the prescribed form that had been given to the Respondents which cites ground 12 of schedule 3 of the 2016 Act. The tribunal was also satisfied that the Applicant had sent a section 11 notice to the local authority in accordance with the requirements of section 56 of the 2016 Act.
- 25 The tribunal considered the wording of paragraph 12 of schedule 3 of the 2016 Act:-
- “Rent arrears*
12 (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 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.”
- 26 It is a matter of agreement between the parties that the rent account has been in arrears since March 2020. The tribunal therefore determined that the rent account had

been in arrears for three or more consecutive months when the notice to leave was delivered to the Respondents, and at the date of this decision.

- 27 The tribunal went on to consider whether it was reasonable to make an eviction order on account of the facts in this case, which requires the tribunal to identify those factors relevant to reasonableness and determine what weight should be applied to them.
- 28 The tribunal gave most weight to both the level of arrears and the length of time they have been outstanding. When the notice to leave was given to the tenant the arrears stood at £2600. They have since more than quadrupled to £10,688.30. It is a significant balance and the tribunal accepted that it would have caused the Applicant financial difficulties, particularly as the Applicant has a mortgage over the property and relies on the rental income to meet the mortgage payments.
- 29 There was no evidence before the tribunal to suggest that the arrears were due in any part to a failure or delay in the payment of a relevant benefit. The tribunal was further satisfied that the Applicant has sufficiently complied with the rent-arrears pre-action protocol. It was clear that the Applicant considered this application to be a last resort based on the length of time the rent account has been in arrears.
- 30 The tribunal carefully considered the Respondents' circumstances. Whilst the second named Respondent's health problems were a cause for concern, ultimately the tribunal gave most weight to the fact that the Respondents did not object to the eviction order. They had been advised by the local authority that it would likely assist them in their application for council housing.
- 31 Accordingly, having considered those factors relevant to reasonableness, the tribunal concluded that the balance weighed in favour of making an eviction order.
- 32 The tribunal therefore concluded that the provisions of paragraph 12 of schedule 3 of the 2016 Act have been met in this case and determined to make an eviction order.
- 33 The decision of the tribunal was unanimous.

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.

Ruth O'Hare