



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 58 of Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/PR/25/2854

Re: Property at Flat 1/0, 3 Drummond Street, Dundee, DD3 6LL (“the Property”)

Parties:

Miss Anya Farnan, Mr David Kirk, 11 Minard Crescent, Dundee, DD3 6LH (“the Applicant”)

Mr Alan Campbell, Mr Richard Mackelworth, 60 Southwold Mansions, Widley Road, London, W9 2LF; 60 Southwold Mansions, Widley Road, London, W9 2LF (“the Respondent”)

Tribunal Members:

Hilary Macandrew (Legal Member) and Kingsley Bruce (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in the sum of £4,250.

Background

1. This is an application for a wrongful termination Order in terms of Section 58 of Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)
2. Section 58 of the 2016 Act provides as follows:

58 Wrongful termination without eviction order

- (1) This section applies where a private residential tenancy has been brought to an end in accordance with section 50.*
- (2) An application for a wrongful-termination order may be made to the First-tier Tribunal by a person who was immediately before the tenancy ended either the tenant or a joint tenant under the tenancy (“the former tenant”).*

(3) The Tribunal may make a wrongful-termination order if it finds that the former tenant was misled into ceasing to occupy the let property by the person who was the landlord under the tenancy immediately before it was brought to an end.

(4) In a case where two or more persons jointly were the landlord under the tenancy immediately before it ended, the reference to the landlord in subsection (3) is to any one of those persons.

3. Section 50 provides, in particular:

Termination by Notice to Leave and Tenant Leaving

(1) A tenancy which is a Private Residential Tenancy comes to an end if:

(a) the tenant has received a notice to leave from the landlord, and

(b) the tenant has ceased to occupy the let property.....

4. The application was initially lodged with the Tribunal on 24 June 2025.
5. On 24 July 2025 the application was accepted by the Tribunal and referred for determination by the Tribunal.
6. A Case Management Discussion (CMD) took place on 6 January 2026 and appropriate intimation of that hearing was given to the parties.
7. At the CMD the Applicant was present. The Respondent was not present. The Tribunal heard submissions made by the Applicant and fully considered the documents which had been lodged.
8. At the CMD the Tribunal adopted a course of action to fix an evidential hearing to determine the matter. The Tribunal had no information from the Respondent relating to their alleged intention to occupy the property as narrated in the Notice to Leave.
9. At the CMD the Tribunal requested that the Respondent lodge for consideration at the Hearing
 - Written representation setting out their position in respect of the application.
 - A paginated and indexed bundle of any documents to be relied on at the hearing.
 - A list of witnesses they may wish to call.

The Hearing

10. The hearing took place by took place by teleconference on 17 June 2026.
11. The Applicant, David Kirk, took part on his own behalf and on behalf of the Applicant Miss Anya Farnan.

12. The Respondent was not represented and did not take part.
13. The documentation before the Tribunal comprised the following:-
 - The Application Form dated 2 July 2025
 - Home Report
 - Letter from Respondent's agent to Applicant dated 5 November 2024 enclosing Notice to Leave
 - Property particulars by Rosie Fraser Real Estate
 - Tenancy Agreement
 - Letter from Walker Love Sheriff Officers dated 8 November 2025
 - Notes from the CMD dated 6 January 2026
14. Respondent lodged none of the information requested by the Tribunal at the CMD.
15. The property was marketed for sale through Rosie Fraser Real Estate in May 2025.
16. The Respondent has not returned to live in the property.
17. The Respondent does not seek to defend the application.
18. The Respondent has given no information to the Tribunal regarding the ground set out in the Notice to Leave.
19. The Respondent has failed to communicate with the Applicant in any form to discuss or negotiate a resolution
20. The Applicant has been misled by the landlord.
21. The Respondent has wrongfully terminated the tenancy
22. The Applicant is entitled to payment in respect of the Respondent's wrongful termination of the tenancy

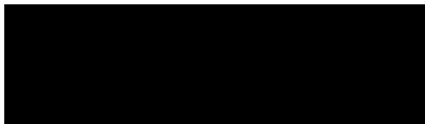
Decision

23. The Tribunal has carefully considered the Notes of the Case Management Discussion and the application form and supporting documentation.
24. The Respondent was given an opportunity to provide information relating to their alleged intention to return to the property as they had narrated in the Notice to Leave.
25. In the circumstances the Applicant is entitled to receive a payment in terms of Section 58 of the Private Housing (Tenancies) (Scotland) Act 2016.
26. The Tribunal is entitled to make an award of up to six times the monthly rent.

27. The monthly rent at the time of termination of the tenancy was £850 per month
28. The Tribunal considers the sum of £4250 to be appropriate. The Respondent's actions fall at the more serious end of the scale of award in terms of the legislation. The Respondents have offered neither explanation nor excuse nor any mitigating factors.
29. The applicant was invited to address the Tribunal in relation to any communication there had been between the Applicant and the Respondent since the CMD. Mr Kirk advised the Tribunal that there had been no correspondence between the Applicant and the Respondent since that time. Mr Kirk reconfirmed that there had been no attempt by the Respondent to engage with the Applicant in securing an informal disposal of the action.

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.



Legal Member

Date: 23/06/2026