



**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/25/5421

**Re: Property at 17 Rothesay Court, Shore Road, Skelmorlie, North Ayrshire, PA17
5DY ("the Property")**

Parties:

**Bute Island Developments Ltd, 14 Craigmore Road, Rothesay, Isle of Bute, PA20
9LB ("the Applicant")**

**Ms Holly Combs, 17 Rothesay Court, Shore Road, Skelmorlie, North Ayrshire,
PA17 5DY ("the Respondent")**

Tribunal Members:

Gillian Buchanan (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion ("CMD"), which took place by telephone conference on 23 June 2026, the Applicant was represented by Ms Jan Crichton. The Respondent was neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD.

Indeed, by email dated 22 June 2026 the Respondent had contacted the Tribunal seeking a postponement of the CMD (see below).

The CMD was also in respect of the related application bearing reference FTS/HPC/CV/25/5422.

Postponement Request

By email dated 22 June 2026 at 3.41pm (being less than 24 hours prior to the CMD) the Respondent submitted a request for a postponement of the CMD. Her email stated:-

"i am looking to get a post ponment as i am not well i have lost my voice and cant speak just not have the doctors to go to to find out whats wrong. i am also going through a cancer scare right now aswell can you please postpone many thanks Holly"

By email to the parties dated 23 June at 10.00am the Tribunal advised that any postponement request would be considered at the CMD.

Background

The Tribunal noted the following background:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 27 March 2025.
- iii. The rent payable in terms of the PRT was agreed to be £1050 per calendar month.
- iv. The deposit payable by the Respondent under the PRT was agreed to be £1500.
- v. On 17 November 2025, the Applicant served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 15 December 2025 on the basis that rent arrears had accrued over three consecutive months.
- vi. As at the date of the Notice to Leave being served the arrears accrued were £3,600.
- vii. The Applicant served on North Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- viii. The Applicant has served on the Respondent by emails dated 30 September 2025 and 3 November 2025 communications to comply with the Scottish Government's pre-action protocols.

The CMD

At the CMD Ms Crichton for the Applicant made the following oral submissions in response to questions from the Tribunal:-

- i. The Respondent is still in occupation of the Property along with her son who is around 9 or 10 years of age and who attends a local school.
- ii. The Respondent is around 30-40 years of age.
- iii. The Property is a modern 2 bedroomed flat within a block of flats overlooking the coast.
- iv. The Applicant owns another flat within the block which is leased to other tenants.
- v. As at the CMD the rent arrears are £10,950 with a further payment of rent due on 27 June 2026.
- vi. There have been no payments by the Respondent since September 2025.
- vii. During a long call with a representative of the DWP in December 2025 Ms Crichton was advised that the Respondent is registered at an address in Glasgow and benefits were being paid to her relative thereto. At that point the Respondent's benefits were being suspended and an investigation undertaken. Ms Crichton has heard nothing further from the DWP.
- viii. The Respondent was in receipt of benefits at the outset of the PRT. The PRT was arranged through "OpenRent". The rent was well within her means.
- ix. All payments from the Respondent during the PRT were made by her directly.
- x. The Respondent paid the first 5 months rent in full.

- xi. Thereafter the Respondent gave all sorts of reasons as to why the rent could not be paid. Initially these reasons were taken at face value and the Applicant proceeded gently.
- xii. The deposit is still held within an approved scheme.
- xiii. The Respondent recently communicated relative to safety checks required at the Property and Ms Crichton believed the maintenance team had obtained access to the Property this month.
- xiv. The Respondent has indicated she is not moving out of the Property saying it is suitable for her and her son and she has no intention of looking for alternative accommodation.
- xv. Most of the Applicant's properties are on the Isle of Bute where proposed tenants are personally known. The Property is on the mainland. The Applicant used OpenRent for the affordability checks. The Respondent passed the credit checks undertaken. However, Ms Crichton did not appreciate that previous Tribunal Decisions are not linked to the credit checks and has now identified a previous eviction order having been granted against the Respondent of which she was previously unaware.
- xvi. The Respondent was given every opportunity to resolve the position. She made payment plans but did not keep them. A welfare visit was attempted to see if anything else could be done. The Respondent is determined to stay in the Property.
- xvii. The Applicant seeks an eviction order.
- xviii. With regard to the Respondent's postponement request, Ms Crichton stated she found the Respondent's position difficult to believe given she has had every illness and given many other reasons for non-payment previously.

The Tribunal adjourned to consider the postponement request and the application generally.

Findings in Fact

The Tribunal made the following findings in fact-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of the PRT that commenced on 27 March 2025.
- iii. The rent payable in terms of the PRT was agreed to be £1050 per calendar month.
- iv. The deposit payable by the Respondent under the PRT was agreed to be £1500 and is still held within an approved scheme.
- v. On 17 November 2025, the Applicant served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 15 December 2025 on the basis that rent arrears had accrued over three consecutive months.
- vi. As at the date of the Notice to Leave being served the arrears accrued were £3,600.
- vii. The Respondent is still in occupation of the Property along with her son who is around 9 or 10 years of age and who attends a local school.
- viii. The Property is a modern 2 bedroomed flat within a block of flats overlooking the coast.
- ix. As at the CMD the rent arrears are £10,950 with a further payment of rent due on 27 June 2026.
- x. There have been no payments by the Respondent since September 2025.
- xi. All payments from the Respondent during the PRT were made by her directly.
- xii. The Respondent paid the first 5 months rent in full.
- xiii. Thereafter the Respondent gave all sorts of reasons as to why the rent could not be paid. Initially these reasons were taken at face value and the Applicant proceeded gently.

- xiv. The Respondent has indicated she is not moving out the Property saying it is suitable for her and her son and she has no intention of looking for alternative accommodation.
- xv. The Applicant served on North Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- xvi. The Applicant has served on the Respondent by emails dated 30 September 2025 and 3 November 2025 communications to comply with the Scottish Government's pre-action protocols.

Reasons for Decision

Postponement Request

The postponement request made by the Respondent was at the "eleventh hour". She was advised by the Tribunal that the request would be considered at the CMD.

The Respondent did not submit any other written representations to the Tribunal and did not attend the CMD.

The Respondent gave no indication as to her position relative to this application and the related application. She could have set out her position in writing within the postponement request so that the Tribunal could understand whether she had any opposition to the applications and, if so, the basis of that opposition.

The Respondent could have been represented at the CMD by a friend, family member, adviser or other third party. She wasn't so represented.

The basis for the postponement request was not vouched by any supporting medical evidence.

The Applicant opposed the postponement request.

In all the circumstances and having regard to the significant rent arrears now due with no payments of any sort having been made by the Respondent since September 2025 and no indication of any sort as to the Respondent's position the Tribunal refused the postponement request.

Eviction Order

The factual background narrated by the Applicant within the application papers and orally by Ms Crichton at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal determined the Notice to Leave to be valid. In particular the Tribunal had regard to the terms of Section 62(4) and (5) of the 2016 Act which state –

"(4) The day to be specified in accordance with subsection (1)(b) is the day falling after the day on which the notice period defined in section 54(2) will expire.

(5) For the purpose of subsection (4), it is to be assumed that the tenant will receive the notice to leave 48 hours after it is sent."

The presumption that a tenant will receive a Notice to Leave 48 hours after it is sent can be rebutted by evidence that it has been received earlier. In this instance the Notice to Leave was sent by email on 17 November 2025 at 11:49 (and received by the Respondent at 11:51). In response thereto the Respondent by emails dated 17 November 2025 at 12:28 and 12:31 made representations as to the arrears of rent due.

The Respondent received the required notice period of 28 days.

The Respondent is in arrears of rent over three consecutive months. The pre-action protocol requirements have been met. The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order on the basis that the rent arrears are significant in value, have accrued over a prolonged period and the Respondent has made no payment since September 2025, with promises of payment being unfulfilled.

Decision

The Tribunal grants an eviction order against the Respondent in favour of the Applicant in terms of Ground 12 of Schedule 3 of the 2016 Act.

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.

Gillian Buchanan

Legal Member/Chair

Date: 23 June 2026