



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/26/0707

Re: Property at 75 Hayton Road, Aberdeen, AB24 2RN (“the Property”)

Parties:

Mr Asim Ali, 13 Lochview Drive, Bridge of Don, Aberdeen, AB23 8QF (“the Applicant”)

Miss Nicola McLaughlin, 75 Hayton Road, Aberdeen, AB24 2RN (“the Respondent”)

Tribunal Members:

Serena Weir (Legal Member) and Robert Buchan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for possession should be granted such order not to be enforced before 12noon on 24 July 2026.

Background

1. By application dated 12 February 2026, the Applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“**the Act**”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“**the procedure rules**”). Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same, a copy of a rent statement as at 19 November 2025 and an updated rent statement as at 26 February 2026.
2. On 24 April 2026 the application was accepted by the Tribunal and referred for determination by the Tribunal.
3. A Case Management Discussion (“**CMD**”) was set to take place on 23 June 2026 and appropriate intimation of that hearing was given to all parties. The application, supporting papers and details of the CMD were served on the Respondent by Sheriff Officer on 21 May 2026. In terms of said notification,

the Respondent was given an opportunity to lodge written representations. None were lodged prior to the CMD.

4. The application was heard together with a conjoined application involving the same parties for a payment order under tribunal reference FTS/HPC/CV/25/5135.

The Case Management Discussion

5. The CMD took place on 23 June 2026 via telephone case conference. The Tribunal delayed commencement of the CMD for 5 minutes to give the Respondent an opportunity to join late but the Respondent did not do so. The Applicant was represented by Mrs Sonia Richardson of Letts & Co Properties. The Respondent did not attend and was not represented at the CMD.
6. The Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.
7. The Tribunal asked various questions of the Applicant's representative with regard to the application who confirmed that the Applicant was insisting on the application.
8. The Applicant's representative explained that the Respondent was not engaging with attempts by her office to contact her. As a result, the Applicant's representative was not aware whether the Respondent was in work. She explained that that was aware that the Respondent was in receipt of some benefits but none was paid to the Applicant directly. The Applicant's representative was not aware if the Applicant had any health conditions. It was believed that the Respondent lived at the Property alone. The Applicant's representative was not aware of what, if any, steps had been taken by the Respondent to find alternative accommodation.

Findings in Fact

9. The Applicant is the registered owner of the property.
10. The Applicant and the Respondent, as respectively the landlord and tenant, entered into a tenancy of the Property which commenced on 18 November 2024.
11. The tenancy was a Private Residential Tenancy in terms of the Act.
12. The monthly rental is £750.
13. By notice dated 26 November 2025 the Applicant served upon the Respondent a notice to leave as required by the Act ("the Notice"). Service of the Notice was effected by email as permitted under the Private Residential Tenancy. The Notice informed the Respondent that the Applicant wished to seek recovery of possession of the property using the provisions of the Act, namely that the Respondent was in arrears of rent over three consecutive months.
14. The Notice was correctly drafted and gave appropriate periods of notice as required by law.
15. The Notice set out one of the grounds contained within schedule 3 of the Act, namely ground 12 (that the Respondent had been in arrears of rent for three or more consecutive months). Arrears at the date of service of the Notice were £4,500.
16. Arrears had started to accrue from April 2025 onwards.
17. Appropriate accounting had been provided with the application to the Tribunal in respect of the outstanding rent due under and in terms of the Private Residential Tenancy.
18. The basis for the order for possession on ground 12 was thus established.

Reasons for Decision

19. The order for possession sought by the Applicant was based on a ground specified in the Act and properly narrated in the Notice served upon the Respondent. The Tribunal was satisfied that the Notice had been served in accordance with the terms of the Act and that the Applicant was entitled to seek recovery of possession based upon this ground.
20. The Tribunal accepted the evidence presented on behalf of the Applicant with regard to the rent arrears. A rent statement was produced which set out the history of the arrears. Since April 2025, the Respondent has failed to pay the full rent as it fell due and significant arrears have accrued.
21. The Tribunal was satisfied that the Respondent has been in arrears for a period far in excess of three consecutive months. The Tribunal accepted the unchallenged evidence of the Applicant relating to the arrears. The Tribunal accepted that the Applicant had made appropriate attempts to encourage the Respondent to deal with the arrears. The Applicant has complied with the relevant provisions of the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
22. The ground for eviction based on rent arrears was accordingly established.
23. Since 07 April 2020, in terms of changes initially made by the Coronavirus (Scotland) Act 2020 and then by the Coronavirus (Recovery and Reform) (Scotland) Act 2022, an eviction order on ground 12 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
24. The Tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the Tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson*, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in a frequently quoted passage:
 25. *"[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account"*.
26. The Respondent had not entered into the Tribunal process and the Tribunal therefore had no material before it either to contradict the Applicant's position nor to advance any reasonableness arguments on behalf of the Respondent.
27. The Tribunal finds that it is reasonable to grant the order.
28. The Tribunal also exercised the power within rule 17 of the procedure rules and determined that the final order should be made at the CMD.

Decision

The Tribunal decided to exercise the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD

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.

Serena Weir

Legal Member/Chair

Date 23rd June 2026