



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/25/2979

Re: Property at 12 Hillwood Crescent, Ratho Station, Newbridge, EH28 8QF (“the Property”)

Parties:

Joshi Property Investment Limited, 21 Steels Road, Broxburn, EH52 5FD (“the Applicant”)

Mrs Stacey Archer, 12 Hillwood Crescent, Ratho Station, Newbridge, EH28 8QF (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Elizabeth Williams (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 eviction should be granted.

Background

1. On 10th July 2025 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were:
 - Copy Private Residential Tenancy Agreement showing a commencement date of 1st March 2021 and a rent of £850 per month;
 - Copy Notice to Leave dated 29th April 2025;
 - Sheriff Officers Certificate of Citation of service on to the Respondent of the Notice to Leave;

- Section 11 Notice and proof of service;
 - Copy Rent Statement showing arrears of £7483.80 as at July 2025.
3. The Application was served on the Respondent by Sheriff Officers on 21st November 2025.
 4. On 5th January 2026, the Applicant's solicitor emailed the Tribunal enclosing a motion to amend the sum sought to £10,217.22. The email acknowledged that the motion had been lodged one day late in terms of the Tribunal Rules and stated that this was due to the holiday period.
 5. On 6th January 2026 the Tribunal received an email from Sam Donegan at CHAI confirming that the organisation has instructions to represent the Respondent.
 6. On 7th January 2026, the Applicant's solicitor emailed the Tribunal enclosing a copy of a pre-action protocol letter to the Respondent dated 27th January 2025, which stated that arrears at that time were £7,225.04.
 7. On 13th January 2026 the Respondent's Representative sent a written Submission to the Tribunal arguing that it would not be reasonable to grant the order sought.
 8. On 15th January 2026 the Applicant's solicitor sent a Written Submission to the Tribunal in answer to the Respondent's Written Submission.

Case Management Discussion

9. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Mrs Elder of Aberdeen Considine, Solicitors. The Respondent was on the call and was represented by Mr Donegan of CHAI.
10. Mrs Elder sought an order for eviction in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. She said that all the requirements of the legislation had been complied with. She said that payments are received towards the rent from Universal Credit, and the current arrears are £10,217.22. She said that the Applicant had initially given the Respondent some leeway as she was suffering from ill health. He is not aware of her current circumstances. The Applicant has a mortgage on the property and is out of pocket each month due to the arrears.
11. Mr Donegan said that the Respondent does not agree the figure for arrears of rent. There is a dispute as to whether or not the rent is fair and properly due as there are repair issues outstanding. He only received the case papers on 9th January 2026 and there are investigations outstanding in to the Respondent's position.
12. The Respondent confirmed that she is holding the full sum sought, £10,217.22, in a separate account. She confirmed that the repairs issues are in relation to

damp in the kitchen which has not been eradicated, a broken window in a bedroom and issues regarding the removal of the back boiler, a partially working cooker and lack of a carbon monoxide detector. She said that an Environmental Health Officer from Edinburgh Council, Darren Smith, had attended the property in the middle of 2025, and had prepared a report which she thinks was sent to the Applicant.

13. Mr Donegan said that he understood that an application was being prepared to be submitted to the Tribunal in relation to the repairing standard.
14. The Tribunal was of the view that the case required to be determined at a hearing as there were matters in dispute. Disputed issues were agreed.

Subsequent to Case Management Discussion

15. The Tribunal issued a comprehensive Direction, requiring the Respondent to lodge a Written Submission and documents by 28th February 2026 and the Applicant to lodge a Written Submission and documents by 31st March 2026.
16. The Respondent did not comply with the Direction. She did not lodge anything.
17. The Applicant lodged a response and documents on 20th March 2026.
18. On 2nd April 2026 the Tribunal received an email from the Respondent's representative confirming that they were no longer representing the Respondent.
19. On 14th May 2026 the Tribunal wrote to the Respondent asking her to confirm if she was seeking fresh representation or if she was going to represent herself. She did not reply.
20. On 21st May 2026 the Tribunal wrote to the Respondent confirming the date of the Hearing and asking her to contact the Tribunal if she had any questions. She did not reply.
21. On 18th June 2026 the Applicant's solicitor lodged a comprehensive Written Submission and an up to date rent statement.

Hearing

22. The Hearing took place by teleconference. The Applicant was represented by Mrs Elder of Aberdeen Considine, Solicitors. The Applicant was also on the call. The Respondent did not appear and was not represented.
23. The Tribunal was satisfied that the Respondent had received notice of the Hearing and had been given the opportunity to contact the Tribunal. The

Tribunal considered that it was, applying Rule 2 of the Tribunal's Rules, just to continue with the Hearing.

24. Mrs Elder sought an order for eviction in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. She said that all the requirements of the legislation had been complied with. She said that payments are received towards the rent from Universal Credit, and the current arrears are £11954, which equates to 14 months of rent.

25. The Applicant said that the property is a two bedroomed house. As far as he is aware the Respondent lives there with her adult daughter and they are both in employment. He thinks that they are still living in the property, and Universal Credit is still making payment towards the rent.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing 1st March 2021 and a rent of £850 per month
- b. A Notice To Leave, dated 29th April 2025, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. At the date of the Notice to Leave the arrears were £8216.71;
- e. At the date of the hearing the arrears were £11954.40;
- f. The Respondent has been in arrears of rent for three or more consecutive months both at the date of serving of the Notice to Leave and the Hearing;
- g. The Respondent has failed to comply with the Direction issued by the Tribunal;
- h. The Respondent has failed to respond to the Tribunal's letters of 14th and 21st May 2026.

Reasons for Decision

26. Ground 12 states as follows:

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.

27. The Tribunal is satisfied that the Ground of eviction has been met. The Respondent has been in arrears of rent for three or more consecutive months both at the date of serving of the Notice to Leave and the Hearing.

28. The Tribunal is also satisfied that it is reasonable to grant the order. The Respondent has not complied with the Direction and has not engaged with the Tribunal since the CMD. The arrears are the equivalent of 14 months rental payments. The level of arrears in and of itself makes it reasonable to grant the order.

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.

A.Kelly

23rd June 2026

Legal Member/Chair

Date