

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/25/5556

Re: Property at 4 Clifden Blue Court, Dundee, DD4 0LR (“the Property”)

Parties:

Affinity Property Management Ltd, 15 Albert Street, Dundee, DD4 6NS (“the Applicant”)

Mr Derek Brannan, 4 Clifden Blue Court, Dundee, DD4 0LR (“the Respondent”)

Tribunal Members:

Serena Weir (Legal Member) and Mary Lyden (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 28 August 2026.

Background

1. By application dated 29 December 2025, 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. Supporting documentation was submitted in respect of the application, including a copy of the Private Residential Tenancy Agreement dated 08 January 2024, a statement of account as at 08 October 2025, correspondence to the tenant sent on 11 November 2025, a copy of the notice to leave dated 06 November 2025 together with evidence of service and a copy of the section 11 notice to the local authority together with evidence of service.
2. On 23 February 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 28 July 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 25 June 2026. In terms of said notification, the Respondent was given an opportunity to lodge written representations. None were lodged prior to the CMD.

The Case Management Discussion

4. The CMD took place on 28 July 2026 at 10am via telephone case conference. The Tribunal delayed commencement of the CMD for 15 minutes to give the Respondent an opportunity to join late but he did not do so. The Applicant was represented by Mr Amir El-Bakary.
5. Following introductions and introductory remarks by the Legal Member, the Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.
6. 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.
7. The Applicant's representative explained that the last contact which he had with the Respondent was in December 2025 / January 2026. During that discussion, the Respondent had promised to make payments towards the rental arrears at the rate of £100 per month. No explanation was provided by the Respondent about why he had not been paying the rent. Whilst the Respondent had made some of the contractual rent payments since then, nothing had been paid to reduce the arrears. The Applicant's representative explained that he understood that the Respondent was in his 50s, was working, lived at the Property alone and had no health conditions that he was aware of. There was a mortgage over the Property. As a result of the Respondent not paying the rent in full, the Applicant was forced to use savings to meet the mortgage payments over the Property. Whilst the Applicant's representative was not clear what steps the Respondent had taken to find alternative accommodation, he did recall the Respondent advising during his telephone call in December 2025 / January 2026 that the Council had been in contact with him.
8. Produced alongside the application was a rental statement. The monthly rent due was £380 on the eighth of each month in advance. An updated statement was produced to the Tribunal in advance of the CMD. In terms of the updated rental statement, the rent arrears had started with the payment due on 08 October 2024 which was not paid. The Respondent subsequently failed to make payment of the rent due for March 2025, October 2025, December 2025, January 2026 and July 2026. These payments were all outstanding as at the date of the CMD. The rent owed as at the date of the CMD was £2,280.

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 08 January 2024.
11. The tenancy was a Private Residential Tenancy in terms of the Act.
12. The agreed monthly rental was £380 payable in advance on the eighth of each month.
13. On 06 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 recorded delivery post 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 £1,140.
16. Arrears had started to accrue in October 2024.
17. The Respondent subsequently failed to make payment of the rent due for March 2025, October 2025, December 2025, January 2026 and July 2026. These payments were all outstanding as at the date of the CMD.
18. The amount of arrears at the date of the CMD was £2,280.
19. Appropriate accounting had been provided with the application and in advance of the CMD to the Tribunal in respect of the outstanding rent due under and in terms of the Private Residential Tenancy.
20. The basis for the order for possession on ground 12 was thus established.

Reasons for Decision

21. 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.
22. 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 October 2024, the Respondent has failed to pay the full rent as it fell due and arrears have accrued.
23. 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.
24. The ground for eviction based on rent arrears was accordingly established.
25. 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.
26. 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:

“[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”.

27. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
28. In this case the Tribunal finds that it is reasonable to grant the order. The balance of reasonableness in this case is weighted towards the Applicant in this application for the following reasons.
29. The Respondent is believed to be working. The Respondent has no apparent health problems. The Respondent lives alone. The Respondent has been afforded an opportunity by the Applicant to repay the rental arrears and has not done so. The rental arrears have been outstanding since October 2024. As a result of the Respondent's failure to make payment of the rent, the Applicant has been forced to use savings in order to pay the sums due on the mortgage over the Property. The fact that the Respondent had been served with a copy of the application and supporting papers and afforded an opportunity to oppose the application and did not do so was another factor which the Tribunal considered made the granting of the order reasonable in all of the circumstances.

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

28th July 2026

Legal Member/Chair

Date