

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("The Act")

Chamber Ref: FTS/HPC/EV/25/3977

Re: Property at 20 Belsize Road, Broughty Ferry, Dundee, DD5 1NF ("the Property")

Parties:

Lynne Tunbridge, 14 Arbuthnott Loan, Broughty Ferry, Dundee, DD5 3TN ("the Applicant")

Shelley Stewart, 20 Belsize Road, Broughty Ferry, Dundee, DD5 1NF ("the Respondent")

Tribunal Member:

Andrew McLaughlin (Legal Member) and Andrew Taylor (Ordinary Member)

Background and Previous Procedure

[1] The Applicant seeks an Eviction Order under ground 12 of Schedule 3 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement, the relevant notice to leave with proof of service; evidence of the rent arrears founded upon and the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003.

[2] The Application called for a Case Management Discussion ("CMD") by conference call at 2pm on 17 March 2026. The Applicant was represented by Ms James, solicitor. The Respondent was personally present.

[3] The rent arrears were then in the sum of £5,338.00. The Respondent explained that she had lost her job and got into financial problems. She was actively seeking work. She lives with her 14-year-old daughter. She wishes to enter into a payment plan to try and sort out her problems. The Tribunal noted that the current monthly rent was now being paid by Universal Credit so the arrears appeared now to be static. The Respondent did not want to be evicted.

[4] The Tribunal decided that it would however be inappropriate to make a substantive decision without providing the Respondent with an opportunity to set out any potential defence to the Application and fully address the circumstances which may impact on the reasonableness or otherwise of granting an Eviction Order. The Tribunal ordered that further representations were submitted by the Respondent setting out the precise basis in fact and law upon which the Application is defended. A Direction was made to this effect. The Respondent gave assurances that she would look to make overpayments of £100.00 a month and that this would increase when she found work. The Respondent was advised to take advice as soon as possible.

[5] The Tribunal explained that it could not force the landlord into accepting this modest repayment plan or guarantee that the Application would be refused if it was adhered to. However, the Tribunal did point out that if it was not adhered to then it may be very difficult for the Respondent to successfully defend the Application. It was explained that the Respondent would really need to sort out her finances and start making concrete plans and sticking to them as her proposals for sorting out her situation seemed somewhat spontaneous.

[6] The Tribunal then continued the Application to Hearing for evidence and submissions to be heard.

The Hearing

[7] The Application thereafter called for a Hearing by conference call at 10am on 3 August 2026. Mr Runciman was present on behalf of the Applicant. There was no appearance or on behalf of the Respondent. The Respondent had also not complied with the Direction previously made. Nothing further had been heard from the Respondent. This was a source of some frustration as it appeared that she had been making the contractual monthly rental payments and over payments of £100.00 a month. However, the Tribunal could not consider that it would be fair or reasonable to refuse or delay the Application when the Respondent had not appeared at the Hearing or complied with the Direction.

[8] Having heard from the Applicant and considered the whole facts and circumstances of the case, the Tribunal made the following findings in fact.

Findings in Fact

1. *The Applicant let the Property to the Respondent by virtue of a Private Residential tenancy within the meaning of the Act. The contractual monthly rent due is £643.00.*

2. *The Respondent fell into rent arrears and at today's date the sum of £4,938.00 is due as arrears of rent.*
3. *The Applicant has made efforts to negotiate a payment plan and has signposted the Respondents to sources of financial support;*
4. *The Applicant competently served a notice to leave under ground 12 of Schedule 3 of the Act. Ground 12 was established at the date of service of the notice to leave;*
5. *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003 and The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
6. *The Respondent has failed to engage with the Tribunal process in that they did not comply with the Direction made to submit their position in writing in advance of the Hearing;*

Reasons for Decision

[9] Having made the above findings in fact, the Tribunal considered that the ground set out in the Notice to Leave was established. The Tribunal also considered that it was reasonable to make an Eviction Order. The Tribunal therefore granted the Application and made an Eviction 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.

Andrew McLaughlin

Legal Member/Chair

3 August 2026

Date