



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 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/26/0924

Re: Property at 11 Cumming Street, Forres, Morray, IV36 1LF (“the Property”)

Parties:

Mr Assad Rasul, St Margarets, 19 Forteath Avenue, Elgin, IV30 1TF (“the Applicant”)

Mr Amikli (Alberto) Mehmet, 11 Cumming Street, Forres, Morray, IV36 1LF (“the Respondent”)

Tribunal Members:

Nicola 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 an order for recovery of possession of the property be granted.

Background

1. By application received on 25 February 2026, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Grounds 12 (rent arrears for three consecutive months) of Schedule 3 to the 2016 Act. 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 Rent Statement and evidence regarding the ‘pre-action protocol’. An application for payment of rent arrears of £1,050 was submitted at the same time and was conjoined with

this application. Both applications thereafter proceeded together through the Tribunal process.

2. Following initial procedure, on 24 March 2026, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. A Case Management Discussion ("CMD") was fixed for 4 August 2026. The application and details of the scheduled CMD were served on the Respondent by Sheriff Officer on 2 July 2026. In terms of said notification, the Respondent was given an opportunity to lodge written representations by 21 July 2026. No representations were lodged prior to the CMD.

Case Management Discussion

4. The CMD took place by telephone conference call on 4 August 2026, commencing at 10am. In attendance was Ms Rebecca Nicolson of Cluny Estate Agents, representing the Applicant. The Tribunal delayed commencement of the CMD for 5 minutes to give the Respondent an opportunity to join late but he did not do so. The CMD accordingly proceeded in his absence.
5. Following introductions and introductory remarks by the Legal Member, Ms Nicolson advised that there has been no recent contact from the Respondent and that contact has been minimal through the whole process. She confirmed that, since this application was lodged, there has been only one further payment towards rent made by the Respondent of £300 on 19 March 2026. Arrears have now increased, from £1,050 when the application was made in February 2026, to £3,000. There has been no explanation from the Respondent. He used to run a tailor's shop in Forres, where they are also based, and they have noticed that the shop is not open as much recently. The Respondent is understood to live alone at the Property and to be 64 years old. The Property is a one-bedroom flat, which is ex-local authority. Ms Nicolson confirmed that there seemed to be attempts by the Respondent to make payments to reduce the arrears during January and February 2026, but then nothing since the £300 in March 2026. She advised that, but for the rent arrears, the Applicant would probably have allowed the lease to continue. There have been no other issues with the tenancy, other than an issue which arose last week. A tradesman had tried to carry out a Gas Safety Check but was unable to do so as the Respondent advised him that he had lost his gas card recently and had therefore been unable to top-up the gas.
6. As to the Applicant's circumstances, the non-payment of rent is having the usual impacts on the Applicant's income. The Applicant owns one other rental property, in addition to this one, which is managed by another branch of Cluny Estate Agents. Ms Nicolson confirmed that the Applicant is still seeking an eviction order.
7. The Tribunal adjourned to consider the application and on re-convening, confirmed that the Tribunal was satisfied that the eviction application was in

order and that it was reasonable in the circumstances for the order sought to be granted. Ms Nicolson was thanked for her attendance and the CMD was concluded.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 17 September 2021.
3. The rent due in respect of the tenancy was originally £395 per calendar month, which had increased to £450 per calendar month from around July 2025.
4. There was a background pattern of rent arrears, due to erratic payments, but arrears were subsequently cleared.
5. However, from October 2025, the rent account was constantly in arrears and although erratic payments continued to be made by the Respondent, the arrears began to build.
6. The last payment towards rent amounted to £300 on 19 March 2026.
7. Arrears amounted to £1,550 when Notice to Leave was served, £1,050 when this application was lodged in February 2026 and now amount to £3,000.
8. The Applicant's agents have sought to engage with the Respondent concerning the rent arrears and issued several communications to him, in respect of the 'pre-action protocol'.
9. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by both email and post on 20 January 2026, the 'signed for' postal delivery being delivered on 21 January 2026.
10. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was 20 February 2026.
11. The Tribunal Application was submitted on 25 February 2026.
12. The Respondent remains in occupation of the Property.
13. The Respondent has been called upon to make payment of the rental arrears or enter into a satisfactory payment arrangement but has failed to do so.
14. The Respondent had been in rent arrears for three or more consecutive months when Notice to Leave was served and remains so.

15. There is no indication that the arrears have arisen wholly or partly as a result of a failure or delay in the payment of relevant benefits.
16. The Respondent did not lodge any written representations with the Tribunal or attend the CMD.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, the procedural background to the application and to the oral representations at the CMD by Ms Nicolson on behalf of the Applicant.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the correct period of notice had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.
3. The Tribunal considered the ground of eviction relied upon in this application, namely Ground 12, and was satisfied that all requisite elements of that ground had been met. Ground 12 is as follows:-

“Rent arrears

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.”

The Tribunal was satisfied that there were now substantial rent arrears, amounting to £3,000 and that the rent had been continuously in arrears since October 2025. The rent had been in arrears for a period exceeding three consecutive months when notice was served in January 2026 and remains so.

4. As to reasonableness, the Tribunal was satisfied that it was also reasonable to grant an order in these circumstances, and to do so at this stage. There was no indication that the Respondent's failure to pay rent was due to any failure or delay in payment of state benefits and it was clear from the 'pre-action protocol' documentation lodged, and the oral submissions of Ms Nicolson that the Applicant's agents had sought to communicate regularly with the Respondent regarding the rent arrears. The Respondent had not engaged properly with the agents in respect of the arrears and had failed to make regular payments to resolve the arrears situation. Although he appeared to have made attempts during January and February 2026 to reduce the arrears, his last payment was £300 in March 2026. No payments have been received since and no explanation offered to the Applicant. Payments had been very erratic for a lengthy period of time and the Applicant could, understandably, no longer rely on receiving regular rental income from the Respondent. 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. The Tribunal accordingly determined that an order for recovery of possession of the Property could properly be granted at the CMD as, in the circumstances, there was no need for an Evidential Hearing.

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.

N Weir

Legal Member/Chair

4 August 2026
Date