



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/26/0379

Re: Property at 3 Church Street, Portknockie, AB56 4LN (“the Property”)

Parties:

Mckays Mini Market Ltd, 16 Seafield Street, Cullen, AB56 4SH (“the Applicant”)

Mr George Curruthers, 3 Church Street, Portknockie, AB56 4LN (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Elaine Munroe (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 26th January 2026 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 Grounds 10 and 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 6th March 2023 and a rent of £400 per month;
 - ii. Copy Notice to Leave dated 10th December 2025;
 - iii. Proof of service of the Notice to Leave;
 - iv. Section 11 Notice and proof of service;
 - v. Copy Rent Statement showing arrears of £5400 as at 10th February 2026;
 - vi. Pre Action Requirements emails

3. Sheriff Officers were unable to serve the application and the legal member approved service by advertisement on the Tribunal's website.
4. A Certificate of Advertisement dated 27th July 2026, prepared by the Tribunal's administration, was produced.

Case Management Discussion

5. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Stephen McKay, Director. There was no attendance by the Respondent or any representative on his behalf.
6. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
7. Mr McKay sought an order for eviction in terms of grounds 10 and 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. He explained that the rent arrears currently stand at £7400. He said that there has been no sign of the Respondent at the property for around 18 months. His company owns the shop beneath the property, and his staff keep a look out for the Respondent. He said that there are never any lights on, day or night.
8. Mr McKay said that the last contact he had with the Respondent was in April 2025 in connection with the rent arrears. He was not aware of the Respondent ever having applied for benefits. He was not aware of the Respondent having any disabilities.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing 6th March 2023 with a rent of £400 per month
- b. A Notice To Leave, dated 10th December 2025, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. The Application was served on the Respondent by Advertisement;
- e. The Respondent has not been seen at the property for 18 months;
- f. The Respondent is not occupying the property as his only or principal home;
- g. The rent is currently in arrears in the amount of £7400, which constitutes nearly 19 months of missed payments.

Reasons for Decision

9. Ground 10 states as follows:

10(1)It is an eviction ground that the tenant is not occupying the let property as the tenant's home.

(2)The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

(a)the let property is not being occupied as the only or principal home of—

(i)the tenant, or

(ii)a person to whom a sub-tenancy of the let property has been lawfully granted, ...

(b)the property's not being so occupied is not attributable to a breach of the landlord's duties under Chapter 4 of Part 1 of the Housing (Scotland) Act 2006 , and

(c)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3)In sub-paragraph (2), the reference to a sub-tenancy being lawfully granted is to be construed in accordance with section 46(3).

10. 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.

11. The Tribunal is satisfied that both Grounds 10 and 12 apply. The Respondent is not occupying the property as his only or principal home. The Respondent has been in rent arrears for three or more consecutive months.

12. The Tribunal also considers in those circumstances that it is reasonable to grant the order. The level of rent arrears makes it reasonable in and of itself. In addition, the Respondent has made no contact with the Applicant in over a year and has made no effort to address the arrears.

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.

Alison Kelly

27.07.26

Legal Member/Chair

Date