

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)**

Chamber Ref: FTS/HPC/EV/25/1874

Re: Property at 11 Elm Grove, Alloa, FK10 1BG (“the Property”)

Parties:

**Kingdom Initiatives Limited, Saltire Centre, Pentland Drive, Glenrothes, KY6
2DA (“the Applicant”)**

Ms Tracy Ann McIntyre, 11 Elm Grove, Alloa, FK10 1BG (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Eileen Shand (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

BACKGROUND

1. By lease dated 28th February 2022 the Applicant let the Property to the Respondent.
2. The start date of the tenancy was 1st March 2022.
3. The rent was initially payable at the rate of £583.59 per calendar month. During the tenancy this was increased to £700.29 per month.
4. The Applicant fell into arrears of rent. A notice to leave dated 15th October 2024 was served upon the Respondent. At that time arrears of rent amounted to £4,585.37.
5. The Applicant subsequently presented two applications to the Tribunal, one seeking an order for eviction (EV/25/1874) and one seeking a payment order in relation to arrears of rent (CV/25/1878).

6. A notice in terms of s11 of the Homelessness Etc (Scotland) Act 2003 was intimated to the local authority.

CASE MANAGEMENT DISCUSSION on 10th NOVEMBER 2025

7. A case management discussion was assigned to be held by teleconference at 10am on 10th November 2025. The Applicant was represented by Miss Donnelly of Messrs T C Young Solicitors. The Respondent participated personally.

The Applicant

8. Miss Donnelly moved the Tribunal to grant an order for eviction and a payment order. She advised the Tribunal that arrears of rent had now increased to £11,469.07.
9. Miss Donnelly advised that, following service of the notice to leave, the Respondent made contact indicating that she wished to terminate the tenancy. Thereafter, she withdrew her consent to a termination. The Applicant thereafter attempted to engage with her to discuss the tenancy but there was limited engagement from the Respondent.
10. During discussions which took place between the Applicant and the Respondent it was arranged that £800.00 per month would be paid by the Respondent towards rent and a small part towards arrears of rent. That arrangement was not adhered to. Had it been adhered to it is unlikely the Applicant would have sought an eviction order.
11. The Applicant called the Respondent in May 2025. While she answered the telephone, she advised that she was unable to take the call as she was at her work. The Applicant thereafter made extensive contact with the Respondent via email and by personal attendance at the Property but with no response from the Respondent. As recently as the week before the case management discussion a housing officer from the Applicant called upon the Respondent to discuss the tenancy and to remind the Respondent of the case management discussions. There was no reply.
12. The Property is a 3 bedroomed property. The Applicant resides there with her adult son. The house has not been adapted in any way for the benefit of any person.
13. It is understood that, for part of the tenancy, a housing element of universal credit was in payment.

The Respondent

14. The Respondent opposed the granting of an eviction order. She accepted the arrears of rent. She advised that she is now working 30 hours per week. Her adult son resides with her, but he does not work. He receives universal credit.
15. She advised the Tribunal she has other debts and she has been looking for alternative accommodation but without success.
16. She had sought advice from a debt advisor as she did not know where to turn.
17. The Respondent advised that her son sadly passed away, at the age of 11 years, 4 years ago. Following that she had difficulty coping and accepts that she fell into debt. The benefits she had been receiving were reduced by £700.00 per month.
18. She advised, however, that she has “sorted it all out” and has obtained advice and support from her GP “to get her life back on track”. She had “got herself into an awful mess” but acknowledged that her debts had increased over a period of time.
19. In relation to obtaining alternative accommodation, she has been in touch with local housing associations but has been advised they are unable to assist her because of her existing level of debt.
20. She contacted the Applicant to ask if she could be moved to a 2 bedroomed house which would be more affordable. She was advised by the Applicant that they were unable to rehouse her at that stage.
21. She is presently 52 years of age and working in a care home.
22. She works 6 days one week and 2 days the following week. Her income is supplemented by universal credit also. Her adult son resides with her and he has income from benefits also.
23. The Respondent is willing to agree to payments being made direct to the Applicant in relation to rent if that can be arranged.
24. The Respondent, given the change in her circumstances since the rent arrears commenced, is of the view that it is not reasonable in the circumstances for an eviction to be granted. She expects to be in a position to make payment of rent, and hopefully payment towards arrears, in the future.
25. In the circumstances, while the level of arrears are significant, the Tribunal noted the reasons provided by the Respondent for the arrears arising and also the submissions made by her in relation to her current circumstances and her intention to make payment of rent on an ongoing basis. In the

circumstances, the Tribunal determined that it is appropriate to fix an evidential hearing to determine whether it is reasonable to grant an order for eviction.

26. The Tribunal, in the circumstances, assigned a hearing in relation to the payment action also.

THE HEARING ON 29TH MAY 2026

27. The Applicant was again represented by Miss K Donnelly of Messrs T C Young, Solicitors. The Respondent participated personally.
28. Prior to the hearing an updated rent statement as forwarded to the Tribunal by the Applicant's representative. This indicated that, rather than arrears of rent having reduced since the last calling of the case, they had increased. As of 1st May 2026 arrears of rent amounted to £14,419.76. There has been an application to vary the amount claimed in the payment order to that amount.
29. At the outset of the hearing the Respondent accepted that arrears of rent had increased to £14,419.76.
30. In relation to the eviction application the Respondent opposed an eviction order being granted, despite accepting the arrears of rent having increased significantly since the last calling of the case. The Respondent advised that she "had quite a few things going on" indicating that she has had health issues which prevented her from working and her son has been "sanctioned" by the job centre and has not been receiving any money for three months.
31. She has had an arrestment coming off her wages which resulted in her wage being reduced by £200.00 per month for a significant period of time.
32. She advised that she has been in hospital for a period of time and has had significant health concerns. Given the combination of factors affecting her, she has not been able to make payment towards her rent or towards arrears, apart from her universal credit payments which were being paid direct. Those, however, are not sufficient to cover the rent nor the arrears.
33. She advised that there were difficulties within the house also, in particular, there were issues with the heating and hot water and she had to use money for extra electricity costs because of that. She indicated those problems persisted throughout January and into February 2026.
34. The Respondent acknowledged, however, that even allowing for any potential abatement of rent to take account of any such difficulties at that time, there would still be a very significant level of arrears of rent outstanding.

35. Upon further enquiry being made of the Respondent, it became apparent there were other debts outstanding which clearly affect the ability of the Respondent to make payment of rent and additional payments towards arrears.
36. Miss Donnelly, on behalf of the Applicant, acknowledged the acceptance of the level of arrears by the Respondent. In those circumstances, subject to the decision of the Tribunal, she did not feel it necessary for evidence to be led to establish any of the factors relied upon by the Respondent to explain why the arrears have arisen. Her position, quite simply, is that whatever the circumstances giving rise to the arrears, the arrears were now at a level whereby it was clearly reasonable that an order for eviction be granted.
37. In relation to the suggestion that there had been issues with the boiler and hot water at the Property during January and February 2026, Miss Donnelly advised that she was aware of that matter. An issue with the boiler was reported on Saturday 24th January 2026. An emergency repair was instructed on that day. An engineer thereafter attended on Monday 26th January 2026. A full repair required a component to be ordered. That was done and the repair was later carried out. In the meantime, temporary heaters were provided and the shower was an electric shower which was still able to be used.
38. Miss Donnelly, in the circumstances, did not accept that it was appropriate that there be any abatement of rent nor any reduction in the sum claimed by way of rent arrears. Any request for an abatement would require to have been sought, and appropriately established, by the Respondent and that has not been done.
39. On the basis the information before the Tribunal was not in dispute, the Tribunal determined that it was not necessary to hear any further evidence in relation to matters before it adjourned to consider its decision.
40. The Tribunal adjourned to enable the members to discuss the information before it and to make its decision.
41. The hearing having resumed, the Tribunal determined that it was reasonable to grant an order for eviction.

FINDINGS IN FACT

42. The Tribunal found the following facts to be established: _
- a) By lease dated 26th February 2022 the Applicant let the Property to the Respondent.
 - b) The Respondent resides at the Property with her adult son.
 - c) Rent is payable at the rate of £700.29 per month.
 - d) The Respondent fell into arrears of rent.

- e) A notice to leave dated 15th October 2024 was served upon the Respondent. At that time arrears of rent amounted to £4,585.37.
- f) An application was subsequently presented to the Tribunal seeking an order for eviction.
- g) A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.
- h) As of 10th November 2025, arrears of rent had increased to £11,469.07.
- i) As of 29th May 2026 arrears of rent had increased to £14,419.76.
- j) The Applicant has been in arrears of rent throughout the tenancy. The arrears of rent have been consistently increasing for a number of years.
- k) The Applicant is in receipt of benefits. The arrears of rent, accordingly, are not due to any failure nor delay in the payment of any relevant benefits.

REASONS FOR DECISION

43. While the Tribunal accepted the proceedings caused significant anxiety for the Respondent, the Tribunal required to determine each case before it on the basis of the facts of each case and applying relevant legal considerations to those facts.
44. While the Applicant had provided an explanation as to why arrears of rent had accrued, and why she had been unable to reduce them since the case management discussion, the fact remained that arrears of rent now exceeded £14,000.00 and, on the information presented to the Tribunal, the Applicant was not in a position to make payment of her full monthly rental payment, quite aside from making any payment to reduce arrears.
45. Given the lengthy history of rent arrears and the fact they have been increasing continually, the Tribunal determined that it was reasonable in the circumstances that an order for eviction be granted.
46. In relation to the payment action, the Tribunal noted that the arrears of rent were admitted by the Respondent. In the circumstances, the only issue arising is whether there should be any abatement as a result of the issue with the boiler at the Property during January and February 2026. The Tribunal determined, however, that it had insufficient information to enable it to determine that there should be any abatement of rent for that reason.
47. While it is accepted by the Applicant that there had been an issue with the boiler, the Applicant had arranged an emergency attendance by a tradesman on the day the defect was reported and, thereafter, arranged for a tradesman to attend very soon thereafter to take all necessary steps to effect a repair. Temporary heaters were provided to the Applicant also.

48. In the circumstances, the Tribunal determined that it was appropriate to grant a payment order in the sum of £14,419.76.

49. The Tribunal considered whether a time to pay direction should be made. The Respondent acknowledged, however, that she would not be in a position to make any realistic proposal for payment of the outstanding amount within any reasonable period of time. In the circumstances, no time to pay direction was made.

DECISION

The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 of Schedule 3 to said Act

Order not to be executed prior to 12 noon on 6th July 2026

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.

Virgil Crawford

Legal Member/Chair

29th May 2026

Date