

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 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/4059

Re: Property at 44/6, Pennywell Gardens Muirhouse, Edinburgh, EH4 4PD (“the Property”)

Parties:

Mrs Patricia Hutchison, 51 Orchard Bank, Edinburgh, EH4 2DS (“the Applicant”)

Ms Angela Loughton, 44/6, Pennywell Gardens Muirhouse, Edinburgh, EH4 4PD (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 44/6, Pennywell Gardens Muirhouse, Edinburgh, EH4 4PD under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings forth and from the Property and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

Background

1. This is an application for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”) based on the Respondent’s rent arrears

2. A Case Management Discussion (“CMD”) took place on 5 June 2026. The Applicant’s letting agent was in attendance. There was no appearance by or on behalf of the Respondent. The matter was continued for the Applicant to produce the email to the Respondent with the Notice to Leave. The Tribunal had asked for this on three previous occasions. The Tribunal issued a Notice of Direction compelling the Applicant to lodge the covering email to the Respondent attaching the Notice to Leave dated 21 July 2025 and an updated rent statement showing the level of arrears as at June 2026.
3. After further requests from the Tribunal the Applicant’s letting agent advised that the system they used tracked emails. The blank message that he had lodged shows there was a Notice to Leave attached. He also advised that they had since sent e-mails to the Respondent confirming she had received said Notice to Leave.
4. On 6 July 2026 the Tribunal advised parties that a CMD would proceed on 3 August 2026.

Continued Case Management Discussion

5. The Tribunal proceeded with a CMD on 3 August 2026 by way of teleconference. Mr Brown from Dunedin Property Management appeared on behalf of the Applicant. There was no appearance by or on behalf of the Respondent despite the CMD starting 5 minutes late to allow her plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence.
6. The Tribunal pointed out to Mr Brown that the email of 21 July 2025 was still blank although it could see that a Notice to Leave was attached. Mr Brown acknowledged that the email should have contained a message and not just the Notice to Leave. The Tribunal enquired about the current arrears. Mr Brown advised arrears had increased to £10 716.18. A payment of £290.23 had been received on 30 July 2026. He was not certain but suspected that payment had been made by Universal Credit. He explained he had contacted the Respondent by email and had emailed her last week to remind her of the CMD. She generally did not respond to emails.
7. The Tribunal enquired as to the size of the Property. Mr Brown explained it was a three bedroomed property. He understood the Respondent had grown up children. The arrears had started to accrue in December 2021. He understood that the Respondent worked and explained he always made a point of calling her later in the day. On further enquiry by the Tribunal Mr Brown advised the Property was not adapted. They had applied for Discretionary Housing Payment in February 2026, but the application had been refused. He had heard nothing further about the Respondent’s contact with the local authority.

Reasons for Decision

8. The Tribunal considered the issues set out in the application together with the documents lodged in support. The Tribunal also considered the following legislation in its determination -
 - Private Housing (Tenancies) (Scotland) Act 2016
 - The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
9. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 12(rent arrears).
10. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.
11. In terms of Section 54 of the 2016 Act a landlord may not make an application to the Tribunal for an eviction order against a tenant until the expiry of the relevant period in relation to that Notice. The relevant period begins on the day the tenant receives the Notice which in the case of Ground 12 of Schedule 3 is 28 days.
12. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states that it proceeds on Ground 12 of schedule 3 of the 2016 Act and states the amount of arrears at Part 2 of the Notice. The Notice to Leave was dated 21 July 2025 and specifies the date the Applicant as landlord expects to become entitled to make an application for an eviction order namely 21 August 2025. In terms of Section 62(4) of the 2016 Act, the Notice to Leave must specify the day falling after the day on which the notice period defined in section 54(2) will expire. In this case the Notice to Leave was sent to the Respondent on 21 July 2025 and was deemed to be received by her on 23 July 2025. In the circumstances the Tribunal is satisfied the Respondent has been given sufficient notice of 28 days. Accordingly, the Notice to Leave complies with Section 62.
13. The Tribunal was satisfied that the arrears had increased to £10 716.18. This equated to nearly a years' worth of arrears, the rent being £834.30. The Tribunal found that the Applicant had established a case under Ground 12. However, Ground 12 is discretionary ground of eviction. As well as being satisfied the facts have been established to support the ground, the Tribunal has to be satisfied that it is reasonable to evict.
14. The Tribunal noted the pre action requirement letters lodged with the application. The Tribunal noted that despite the Applicant's efforts to try to get the Respondent to engage with them to clear the arrears the Respondent had not made any effort to do so. The Tribunal gave considerable weight to the

substantial arrears. The Tribunal also considered that the Respondent had not opposed the application and had not engaged with the Tribunal process. The Tribunal considered it was hard to see how the arrears could ever be cleared. On balance therefore, reasonableness favoured the Applicant.

15. The Tribunal noted that notice under Section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to Edinburgh City Council had been served. In the circumstances the Tribunal considered that in terms of Ground 12 of Schedule 3 the Respondent has been in rent arrears for over three consecutive months and that it is reasonable to grant an eviction order in terms of Section 51 of the 2016 Act.

Decision

16. The Tribunal granted an Order of eviction. The decision of the Tribunal was unanimous.

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.

3 August 2026

Legal Member

Date