



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/25/5175

Re: Property at Flat 24, 4 Chestnut Wynd, Edinburgh, EH5 1SJ ("the Property")

Parties:

Harbour Homes (Scotland) Limited, 108 Constitution Street, Leith, Edinburgh, EH6 6AZ ("the Applicant")

Mr Marc Robertson, Flat 24, 4 Chestnut Wynd, Edinburgh, EH5 1SJ ("the Respondent")

Tribunal Members:

Shirley Evans (Legal Member) and Nicholas Allan (Ordinary Member)

Decision

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 Flat 24, 4 Chestnut Wynd, Edinburgh, EH5 1SJ 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. By application dated 28 November 2025, the Applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") 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. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties dated 18 October 2024, a rent statement, letters dated 20 and 27 June 2025, a Notice to Leave dated 7 October 2025, a Section 11 Notice and evidence of service of that Notice upon the City of Edinburgh Council.
3. On 9 April 2026 the Tribunal accepted the application under Rule 9 of the Regulations.
4. The Tribunal fixed a Case Management Discussion ("CMD") and the application papers were intimated upon the Respondent. Thereafter the Applicant sought a postponement due to annual leave. That request was granted by the Tribunal on 9 June 2026.
5. On 17 June 2026 the Respondent appointed CHAI as his representative.
6. On 16 July 2026 a further CMD was assigned to proceed on 3 August 2026.
7. On 29 July 2026 CHAI intimated to the Tribunal that the Respondent did not oppose the application.

Case Management Discussion

8. The Tribunal proceeded with the Case Management Discussion on 3 August 2026. Mr Hastie from the Applicant appeared. Mr Wilson from CHAI appeared for the Respondent.
9. The Tribunal had before it the Private Residential Tenancy Agreement dated 18 October 2024, the rent statement, the letters dated 20 and 27 June 2025, the Notice to Leave dated 7 October 2025, the Section 11 Notice with email to Edinburgh City Council and the emails from CHAI.
10. Mr Hastie submitted the arrears had increased to £12064.57. When the tenancy had started the Respondent had paid 6 months' rent in advance. After that period was up the Respondent went into arrears. The Applicant started to send letters to the Respondent. The Applicant is keen to sustain tenancies, and it was hoped the Respondent would make an arrangement to clear the arrears. However, that did not happen. There have been 3 payments to account this year totalling £650. The Property is a 2 bedroomed property as when the Respondent applied for housing he had access to his daughter. He no longer has that access, and the Applicant have suggested that he share with someone, but the Respondent has not taken up either of these suggestions. They have now reached the stage where there is no option but to seek eviction.

11. Mr Wilson for the Respondent confirmed the application to evict was not opposed. The Respondent had been working for cash in hand. There were no benefits issues. CHAI have given the Respondent advice to consult his GP regarding his addictions and have suggested he make weekly payments to the arrears. They have also advised that he speak to the Council about his housing options, but he has not yet done so. Mr Wilson advised the Respondent is aged 38 and lives alone.

Reasons for Decision

12. 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.
13. Section 51(1) of the 2016 Act gives the Tribunal power to grant an eviction order where one or more grounds within Schedule 3 have been established. This application proceeded on Ground 12 (rent arrears over three consecutive months). In terms of Section 52 of the 2016 Act, the Tribunal may not entertain an application unless accompanied by a Notice to Leave specifying the eviction ground founded upon. In terms of Section 54 of the 2016 Act, the landlord may not apply to the Tribunal until expiry of the relevant notice period. The Tribunal was satisfied that the Notice to Leave dated 7 October 2025 clearly specified Ground 12 of Schedule 3 and contained sufficient detail regarding the arrears and the basis upon which eviction was sought.
14. The Tribunal was satisfied that the Respondent had been in rent arrears for more than three consecutive months both at the date of service of the Notice to Leave and at the date of application. The rent statement demonstrated arrears of £5049.85 as at 1 November 2025. These had now increased to £12064.57.
15. The Tribunal was further satisfied that the Applicant had complied with the pre-action requirements. The Applicant had contacted the Respondent, offered support, provided details of debt advice agencies, discussed repayment proposals and explored options to reduce the Respondent's housing costs. Ground 12 is a discretionary ground. Accordingly, the Tribunal required to consider whether it was reasonable to grant an eviction order.
16. The Tribunal placed significant weight upon the level of arrears, the duration of those arrears and the Applicant's sustained efforts to engage with and support the Respondent. Despite numerous opportunities, the arrears continued to accrue. The Tribunal considered that the Applicant had acted reasonably throughout and had complied fully with its statutory obligations prior to raising proceedings. Further the Tribunal gave considerable weight to the fact the Respondent had not opposed the application. The Tribunal noted that notice under Section 11 of the Homelessness etc. (Scotland) Act 2003

had been served upon the City of Edinburgh Council. In all the circumstances, the Tribunal was satisfied that Ground 12 had been established and that it was reasonable to grant an eviction order in terms of Section 51 of the 2016 Act.

Decision

17. The Tribunal granted an Order for 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.

S.Evans

3 August 2026

Legal Member

Date