

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 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/5494

Re: Property at 40 Dishlandtown Street, Arbroath, DD11 1QZ (“the Property”)

Parties:

Cheriyampanattu Joseph Isac, Lali Isac, 223 North Anderson Drive, Aberdeen, AB16 5NH (“the Applicant”)

Vicky Anderson, 40 Dishlandtown Street, Arbroath, DD11 1QZ (“the Respondent”)

Tribunal Members:

Elaine Paton (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and Ground 12 of Schedule 3 of the 2016 Act. Detail of the tenancy arrangement, a Notice to leave, rent statement, rent increase notice, section 11 notice and evidence regarding the rent arrears pre-action protocol were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer on 29 June 2026. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 30 July 2026 at 10am and that they were required to participate. The Respondent was required to submit any written representation in response to the application by 15 July 2026 however no representation was received by that date. On or around 27 July 2026 the Housing and Property Chamber (“HPC”)

administration received an updated rent statement from the Applicant's solicitor which had been copied to the Respondent by way of intimation. On or around 28 July 2026 the HPC administration received correspondence from the Respondent in a forward of the Applicant's solicitor's email of 27 July 2026, which provided information about the Respondent's circumstances and seeking a "short delay" regarding the upcoming CMD. On 28 July 2026 the HPC administration wrote to parties reminding them that submissions made within seven days of the hearing would only be received at the discretion of the Tribunal, and in relation to any request for postponement by a party they were required to provide an explanation as to why postponement was necessary with supporting documentation (redacted as necessary) that required to be crossed over to the other party and sent for the consideration of the Tribunal to determine whether or not cause had been shown that postponement was necessary; and in absence of such explanation the CMD would proceed as scheduled. On 30 July 2026, shortly before commencement of the CMD, copy images of an Occupational Health Report (dated 16 July 2026), received from the Respondent, were crossed over to the Applicant's solicitor and sent to the Tribunal.

3. The CMD took place on 30 July 2026. The start time of the CMD was delayed by approximately 5 minutes. The Applicant was not present but was represented by Ms Wooley of Bannatyne Kirkwood France & Co, solicitors. The Respondent did not participate.

Summary of Discussion at CMD

4. The Applicant's representative Ms Wooley confirmed she had received the images lodged by the Respondent, crossed over to her before commencement of the CMD. Ms Wooley stated that she had had an opportunity to read the report comprised across the various images. The Tribunal allowed the Respondent's correspondences to be received, albeit late. The Tribunal noted there was no express request or explanation on why a postponement of the CMD would be necessary comprised in the Respondent's latest submission. The Tribunal allowed the updated rent statement lodged on behalf of the Applicant to be received also. Ms Wooley did not take issue with the content of the Respondent's occupational report submission. Ms Wooley stated that due to the high balance of unpaid rent, the Applicant wished the Tribunal to grant an eviction order.
5. The Tribunal noted from her written submission that the Respondent was still residing in the Property. Ms Wooley stated the tenancy arrangement started on 12 April 2024. The Tribunal noted the Private Residential Tenancy agreement lodged with the application states an initial sum equivalent to the £750 calendar monthly rent is due to be paid for the period 12 to 30 April 2024, and thereafter rent of £750 due calendar monthly in advance on the 1st of the month. Also lodged was a Rent Increase Notice dated 15 April 2025 which stated the rent would increase to £787.50 on 01 August 2025, and an email addressed to the Respondent of even date attaching same. A rent statement produced with the application demonstrated there were three consecutive months arrears of rent which had endured for a considerable

period. Pre-action protocol email correspondences were sent to the Respondent regarding her arrears of rent with copy correspondences produced. The Tribunal noted the rent account last showed a zero balance on 07 November 2024. During the period 01 June 2025 to 06 April 2026 the Respondent had made two payments to her rent account: £400 on or around 07 October 2025 and £400 on or around 07 November 2025. Subsequently, the Respondent made payments of £750 on or around 07 April 2026, 07 May 2026, 05 June 2026, and 07 July 2026 - all payments falling short of the rent of £787.50. The Tribunal noted that on or around 10 November 2025 the Applicant's letting agent had corresponded with the Respondent regarding a payment of £400 received from her and had asked when she would pay her rent in terms of the payment plan. In response to the Tribunal, Ms Wooley did not have information regarding the detail of any payment plan but reiterated the Respondent had been in arrears for some eighteen months, since December 2024, and the level of arrears have increased significantly despite payments made to the rent account by the Respondent. Ms Wooley explained the arrears were £3,030 when the Notice to Leave was issued in August 2025; £5,380 when the application was made to the First-tier Tribunal on 22 December 2025, and the current level of arrears are £7,892.50.

6. Ms Wooley stated the applicants are both in their early sixties; they are both in employment; they have two children of higher education age, at university. Ms Wooley explained the Property is the Applicant's only rental property and there is no mortgage secured over it. The rental income from the Property was used to help support their children however the Respondent's non-payment has placed them in a position whereby they are limited in the level of support they can provide to their children notwithstanding their own day to day living expenditures have been impacted. One of the applicants is awaiting a surgical procedure and as a consequence of relative NHS waiting list timescales, the Applicant wished for that procedure to be carried out privately but their life choices are limited due to their present financial position. Ms Wooley explained the present matters have caused stress for the applicants and that stress is ongoing. Consequently, the applicants are looking at a re-evaluation of their finances, including their capital, and are now considering selling the Property in order to fund the aforementioned surgical procedure. The Applicant cannot continue to sustain the present position regarding the Property.
7. In relation to the Respondent's circumstances, and in response to the Tribunal, Ms Wooley stated that it had come to the attention of the Applicant that in addition to her employment salary the Respondent had been in receipt of universal credit ("UC") however the level of UC received by her had been reduced fairly recently after her daughters turned 18 years old. Responding to the Tribunal, Ms Wooley was unaware whether any payments to the rent account had been made directly from UC or if the payments were made at the instance of the Respondent. Ms Wooley explained that the Respondent has been residing in the Property with her two daughters. Ms Wooley continued to explain that she had noted from the Respondent's occupational health ("OH") report submission that the Respondent is 49 years old, however Ms Wooley had no information on whether or not the Respondent was now back at work

following a period of absence referred to in the OH report produced. Responding to the Tribunal, Ms Wooley stated the Property is a three-bedroomed terraced house with a back garden. Further responding to the Tribunal, Ms Wooley stated that she had no information regarding health issues with the Respondent's household other than the information provided in the Respondent's submissions. Ms Wooley was unaware whether or not the Respondent had made efforts to source alternative accommodation or seek support from the local authority, however the Applicant's letting agent had issued a significant amount of correspondence to the Respondent which included signposting to advice agencies and organisations, and the local authority was advised of the present proceedings albeit it was unknown whether they had been in touch with the Respondent. The Tribunal directed Ms Wooley to the Respondent's email submission dated 27 July 2026 and the Respondent's statement that she had encountered difficulties in her efforts to contact the Applicant's letting agent: her emails had been rejected, calls were constantly being put to voicemail and it was her understanding the letting agency had a high turnover of staff. Responding to the Tribunal regarding the Respondent's assertion, Ms Wooley stated that she was unaware of there being any difficulties in reaching the letting agent or them in communicating externally, and she personally had not encountered any issue.

Findings in Fact

8. The Applicant is the owner of the Property and holds the landlord's interest in it.
9. The Respondent is the tenant of the Property in terms of a private residential tenancy agreement which commenced on 12 April 2024.
10. The initial calendar monthly rental was £750. There was a rent increase notice issued and emailed to the Respondent on 15 April 2025, whereby the rent was increased to £787.50 effective 01 August 2025 therefore the Respondent is due to pay ongoing rent of £787.50 per calendar month.
11. The Respondent has been in arrears of rent since December 2024, with payments to the account received sporadically after months of non-payment. During the period 01 June 2025 to 06 April 2026, the Respondent made two payments: £400 on 07 October 2025, and £400 on 07 November 2025. Four recent payments were received by the Applicant to the Respondent's rent account: £750 on 07 April 2026, £750 on 07 May 2026, £750 on 05 June 2026, and £750 on 07 July 2026.
12. The Respondent currently owes £7,892.50 in unpaid rent.
13. The Applicant's letting agent made efforts to engage the Respondent and issued correspondences to the Respondent in compliance with the rent arrears pre-action protocol.
14. The Respondent has failed to engage meaningfully with the Applicant's letting agent or offer an explanation regarding the periods of non-payment of rent, or

the significant level of arrears. In relation to the four recent payments made by the Respondent, she has offered no explanation regarding her failure to make payment of the full £787.50 ongoing rent payment obligation.

15. The Respondent resided in the property when the tenancy commenced and is still residing in the Property to date. It is believed one of the Respondent's daughters continues to reside with her in the Property, and a second daughter will reside there from time to time when not residing elsewhere while attending university.

Reasons for Decision

16. The application was submitted with a copy signed Private Residential Tenancy agreement. The Respondent has resided at the Property since 12 April 2024.
17. The application was also submitted with a Notice to Leave dated 11 August 2025, together with a copy certificate of posting via recorded delivery post to the Respondent and relative Royal Mail track and trace delivery report which establishes that the Notice was served on the Respondent on 12 August 2025 and received on 14th August 2025. The Notice states that an application to the Tribunal is to be made on ground 12 (rent arrears over three consecutive months).
18. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
19. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
20. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states "(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in 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." Sub-Paragraph (4) states, "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 Minister in regulations." Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements

Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant's rights in relation to eviction proceedings and how the tenant can access information and advice.

21. The Tribunal accepted the unchallenged evidence of the Applicant in the form of the documents submitted and the information provided at the CMD. The Tribunal is satisfied that the Respondent currently owes £7,892.50 in unpaid rent and that she has been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Ground 12 is therefore established.
22. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
 - (a) The Tribunal is satisfied that the Applicant's letting agent has complied with the Rent Arrears Pre-Action Protocol. The Applicant's solicitor produced copies of email correspondences issued to the Respondent in compliance with the protocol.
 - (b) The Tribunal is also satisfied that there is no evidence to contradict the Applicant's solicitor's understanding that the Respondent is in employment and she may be in receipt of benefits (at a reduced rate recently due to her two daughters turning 18 years old); consequently, the arrears could not be attributable to a delay or failure in the payment of a relevant benefit.
 - (c) The Respondent did not participate in the CMD or notify the Tribunal if the application was opposed.
 - (d) The arrears are significant and are increasing. Although the Respondent has made four recent payments to the rent account, and two other payments towards the end of last year, none of these cover the ongoing rental charge of £787.50 due per calendar month.
 - (e) The Respondent has failed to engage meaningfully with the Applicant's letting agent in order to address the situation. A payment plan is alluded to amongst the application papers however the Respondent did not make over payment of the ongoing rent. The Respondent has provided no explanation for the periods of non-payment of rent or the shortfall sums regarding the six payments made over the course of the last fourteen months.
 - (f) The Respondent did not attend the CMD and she has not put forward a position which might improve the situation she finds herself in. The Respondent has failed to indicate to the Tribunal how she would pay the ongoing rent and the arrears therefore there appears little or no prospect of the Respondent making sufficient payment to the rent account.
 - (g) The Respondent has health issues as outlined in the occupational health report dated 16 July 2026. The present tenancy position is unsustainable.

Prolonging matters would negatively impact upon the Respondent and the Applicant.

- (h) The Applicant's health has suffered and their life choices personally and in relation to their children have been negatively impacted as a consequence of the Respondent's non-payment of rent.

The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and that ground 12 has been established. For the reasons outlined in paragraph 22, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

The Tribunal determines that an eviction order should be granted against the Respondent.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.