



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 (“the Act”)

Chamber Ref: FTS/HPC/EV/26/1527

Re: Property at 8 Park Avenue, Thurso, KW14 8JP (“the Property”)

Parties:

Miss Beth O'Connell, 4 Dalry Park, Belfast, BT5 7GJ (“the Applicant”)

Miss Lisa Jane Staff, 8 Park Avenue, Thurso, KW14 8JP (“the Respondent”)

Tribunal Members:

Fiona Stephen (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 an order for eviction should be granted.

Background

1. By application dated 7 April 2026, the Applicant sought an order for eviction under section 51 and Ground 12 of Schedule 3 of the Act (tenant in arrears for three or more consecutive months) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). On 4 May 2026 the application was accepted by the Tribunal and referred to it for determination.
2. A copy of the application was served on the Respondent by Sheriff Officer conform to execution of service dated 13 August 2026 and parties were notified that a Case Management Discussion (“CMD”) would take place on 16 September 2026 at 2pm by telephone conference call and that they were required to participate. The Respondent was required to submit any written representations in response to the application by 29 August 2026. No written representations were lodged.

3. On 28 August 2026, the Applicant lodged with the Tribunal a Rent Increase Notice (erroneously dated 5 January 2025 instead of 2026) which informed the Respondent that the rent would be increased from £400.00 to £450.00 per month with effect from 8 April 2026. This had been sent to the Respondent by the Applicant by email dated 5 January 2026. An up-to-date rent statement was also lodged.
4. The Tribunal had before it:
 - i. The Application Form E;
 - ii. A Private Residential Tenancy agreement dated 11 and 24 May 2021 between the Applicant and the Respondent;
 - iii. Confirmation from the Scottish Landlord Register that the Property is registered in the name of the Applicant;
 - iv. The Rent Increase Notice dated 5 January 2026;
 - v. A Rent Statement for the period from November 2021 to August 2026; and
 - vi. Case Papers.

Case Management Discussion

5. A CMD took place on 16 September 2026 at 2pm by teleconference call. The Applicant, Ms O'Connell appeared along with her solicitor, Ms Thorpe of Jackson Boyd LLP. There was no appearance by the Respondent although the Tribunal delayed the start of the CMD by a few minutes in case she appeared.
6. The Tribunal explained the purpose of the CMD and the powers of the Tribunal to determine matters. The Tribunal asked various questions with regard to the application.
7. Ms Thorpe confirmed that the Applicant was seeking an order for eviction on the basis of rent arrears. The Tribunal noted that the most recent rent statement showed the arrears as at August 2026. The Tribunal asked if any payments had been made in September yet. Ms O'Connell confirmed that no payment had been received from the Respondent. The Tribunal noted from the rent statement that the Respondent had always paid her rent in a sporadic way, sometimes paying the rent, sometimes overpaying/underpaying or not paying at all. The Tribunal asked Ms O'Connell if she knew why this was. Ms O'Connell stated that the rent arrears had built up over a long time. The Respondent is an intermittent cleaner and works over the holiday season. When she is not working, she applies for benefits. When the Respondent was on benefits, there could be a six-week delay in payments being made. Ms O'Connell found out about three years into the tenancy that the Respondent could have had her benefits backdated.
8. Ms O'Connell made best efforts to agree a payment plan with the Respondent, but she did not stick to it. Ms O'Connell said she had her own issues to deal with and could no longer afford to have the Respondent in the Property without paying rent.

9. Ms O'Connell said that it has been difficult to communicate with the Respondent. One recent example was that Scottish Gas contacted the Applicant to advise that the meter in the Property needs to be changed to ensure continued provision of heating and hot water. The Applicant tried to make contact with the Respondent, but she did not respond. The Applicant contacted the Respondent's son on 24 August 2026 and asked him to tell the Respondent that she needed to make contact with Scottish Gas. The Applicant is unaware if the Respondent did so or if the meter has been changed. Ms O'Connell assumes not.
10. The Respondent made contact with Ms O'Connell on 15 February 2026 and said she was going to the Council to find out about alternative accommodation. Ms O'Connell assumes that is still the case. The Property is a two-bedroomed semi-detached house. Ms O'Connell last heard from the Respondent on 3 March 2026. The Respondent said she had not managed to find somewhere else but offered to pay half her rent that month. Ms O'Connell told the Respondent that she would forgive the arrears if the Respondent moved out. On 8 March 2026, Ms O'Connell informed the Respondent that she should move out by 6 May. The Respondent did not.
11. The Tribunal asked Ms O'Connell and Ms Thorpe if they were able to provide any information relating to the Respondent's personal circumstances. Ms O'Connell stated that the Respondent lives alone and, she believes, is in her late 50's. Her son is married and lives in Thurso. The Respondent had mentioned "cancer" in December 2024 however, Ms O'Connell had not heard anything more about it. Ms O'Connell had no further information.
12. The Tribunal adjourned for a short period. On reconvening, the Tribunal advised the Applicant and Ms Thorpe that it was satisfied the ground for eviction had been established and that it was reasonable to grant an eviction order. A written decision with reasons would be issued as soon as possible.

Findings in Fact

13. The Property was let to the Respondent under a Private Residential Tenancy Agreement between the Applicant and the Respondent dated 11 and 24 May 2021.
14. The tenancy commenced on 28 May 2021.
15. In terms of Clause 7, the agreed monthly rental was £400.00 per four weeks, payable in arrears. The first payment of £400.00 was to be paid on 21 June 2021 for the period 28 May 2021 to 21 June 2021. Thereafter payments of £400.00 were to be received on an unspecified day of the fourth week and then subsequently on or before the same day of each four weekly period.

16. The rent was increased to £450.00 per calendar month from 8 April 2026 in terms of a Rent Notice dated 5 January 2026 (erroneously dated 5 January 2025) sent to the Respondent by email on 5 January 2026.
17. The Applicant competently served a notice to leave on the Respondent dated 3 February 2026 in terms of ground 12 of Schedule 3 of the Act. Said notice was sent by email as provided for in the tenancy agreement (clause 3). It was also sent by recorded delivery post which was delivered on 4 February 2026 conform to the track and trace receipt of the same date. The notice became effective on 8 March 2026. The Notice informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act.
18. As at the date of the Notice to Leave the Respondent had been in arrears of rent since December 2021, a period of three or more consecutive months as required under ground 12 of Schedule 3 of the Act. The arrears of rent were £2 962.01.
19. As at the date of lodging this application, the Respondent was in arrears of rent of £3 228.08.
20. The Respondent has made sporadic payments of rent since commencement of the tenancy.
21. The Respondent remains in rent arrears. The amount of rent arrears as at August 2026 was £4 994.15 as shown in the rental statement provided by the Applicant.
22. Prior to raising this application, the Applicant agreed a repayment plan for the rent arrears with the Respondent. The Respondent did not keep to the payment plan.
23. Pre-action protocol letters were sent to the Respondent by email on 28 January and 6 March 2026 in terms of the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
24. The Respondent contacted the Applicant on 15 February 2026 to say that she was going to contact the Council about alternative accommodation.
25. The Applicant last heard from the Respondent on 3 March 2026.
26. The Respondent did not reply to a message sent by the Applicant to her on 8 March 2026 to the effect that the Applicant would not insist on rent arrears if the Respondent moved out by 6 May 2026.
27. In 2026, Scottish Gas made contact with the Applicant to advise that the meter in the Property needs to be changed to ensure continued provision of heating and hot water. The Applicant tried to get in touch with the Respondent, but she did not respond. The Applicant contacted the

Respondent's son on 24 August 2026 and asked him to tell the Respondent that she needed to make contact with Scottish Gas. The Applicant is unaware if the Respondent has done so or if the meter has been changed.

28. The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003.
29. The Property is a two-bedroomed semi-detached house.
30. The Respondent lives in the Property on her own. Her son is married and lives in Thurso.
31. The Respondent is in intermittent employment.
32. When the Respondent is not working, the Applicant understands the Respondent claims benefits.
33. The Applicant can no longer afford to retain the Property with no rent being paid.
34. The basis for the order for possession on Ground 12 of the Act is established.

Reasons for Decision

35. The order for possession sought by the Applicant was based on a ground specified in the Act. Ground 12 of Schedule 3 of the Act was properly narrated in the notice to leave served on the Respondent. The Tribunal was satisfied that notice had been served in accordance with the terms of the Act and the Applicant is entitled to seek recovery of possession on that ground.
36. The Tribunal accepted the evidence provided by the Applicant with regard to the rent arrears. Rent statements were produced which set out the history of the arrears. Since December 2021, the Respondent has failed to pay the full rent as it fell due. The Respondent has made sporadic payments of rent throughout the duration of the tenancy, sometimes paying the rent, sometimes overpaying/underpaying or not paying at all. Apart from one overpayment of rent (£603.93) made in March 2026, the last full payment of rent was made in November 2025. Since then, rent has been underpaid (in December 2025, February, May, June, July and August 2026) or not paid at all (January and April 2026). The rent arrears have continued to accrue and stand at £4 994.15 as at August 2026.
37. The Tribunal was satisfied that the Respondent has been in arrears for a period of three consecutive months or more. The Tribunal accepted the unchallenged evidence of the Applicant relating to the arrears. The Tribunal accepted that the Applicant made appropriate attempts to encourage the Respondent to deal with the arrears.
38. The ground for eviction based on rent arrears is established.

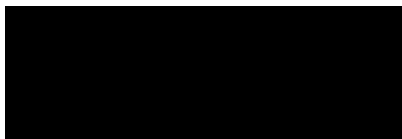
39. Since 7 April 2020, in terms of changes made initially by the Coronavirus (Scotland) Act 2020 and then by the Coronavirus (Recovery and Reform) (Scotland) Act 2022, an eviction order on ground 12 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
40. The Tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the Tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson* [1942] 2 All ER 653 at 655 in which Lord Green MR said in an often quoted passage:
- “In considering reasonableness...it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad common sense way as a man of the world and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account.”*
41. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and weigh the various factors which apply to the parties.
42. In this case the Tribunal finds it is reasonable to grant the order. The balance of reasonableness is weighted toward the Applicant for the following reasons:
43. The level of arrears is high and is long-standing. It is unlikely that the arrears will be paid. The Respondent is making no attempt to meet the current rent as it falls due or the arrears of rent. The Respondent has made no attempt to engage with the Applicant despite reasonable attempts to do so.
44. The Property is a two bedroomed semi-detached house. The Respondent lives there on her own.
45. The Applicant cannot afford to keep the Property with no rental income being received.
46. The Respondent has not engaged with the Tribunal process despite having an opportunity to do so.
47. The Tribunal decided to exercise the power within rule 17 of the Rules and determined that a final order should be made at the CMD.

Decision

The Tribunal makes an order for eviction of the Respondent, Miss Lisa Jane Staff from the Property at 8 Park Avenue, Thurso, KW14 8JP.

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.



**Fiona Stephen
Legal Member/Chair**

**16 September 2026
Date**