

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 2016 Act”)

Chamber Ref: FTS/HPC/EV/26/1198

Re: Property at 1 Milne Meadows, Old Craighall, EH21 8TA (“the Property”)

Parties:

LAR Housing Trust, Buchan House, Enterprise Way, Dunfermline, Fife, KY11 8PL (“the Applicant”)

Miss Lynsey Ann Turner, 1 Milne Meadows, Old Craighall, EH21 8TA (“the Respondent”)

Tribunal Members:

Craig Chisholm (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the Property should be granted.

Background

1. By application dated 16 March 2026, the Applicant sought an order in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”).
2. On 22 April 2026, the application was accepted by the Tribunal and referred for determination.
3. A case management discussion (CMD) was set to take place on 18 September 2026, and appropriate intimation of that hearing was given to all parties.

The Case Management Discussion

4. The CMD took place on 18 September 2026 *via* telephone conference call. The Applicant was represented by Mrs Mullen, Messrs TC Young Solicitors. The Respondent was personally present.
5. The Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.
6. The Tribunal asked various questions of the parties with regard to the application.
7. The Applicant's representative confirmed that the Applicant wished the Tribunal to make an order for eviction.
8. The Respondent confirmed she was opposed to an order being made.

Findings in Fact

9. The Applicant is the registered owner of the Property.
10. The Applicant and the Respondent are respectively the landlord and tenant under a Private Residential Tenancy Agreement for the Property, entered into in terms of the 2016 Act and commencing on 3 May 2025.
11. On 23 January 2026 the Applicant served upon the Respondent a Notice to Leave (NTL) as required under the 2016 Act. Service was effected by email. The NTL informed the Respondent that the Applicant wished to seek recovery of possession under ground 12 contained within Schedule 3 of the 2016 Act, namely that the tenant had been in arrears of rent for three or more consecutive months.
12. The NTL was correctly drafted and gave appropriate periods of notice as required by law.
13. The initial agreed monthly rental was £584.10 per month. Rent was increased on 1 August 2026 to £602.79 per month.
14. Arrears have accrued since around July 2025 and at the date of the lodging of the application arrears amounted to £2,549.50. The amount of arrears at the date of the CMD was £4,719.30.

15. The Respondent made a payment to the Applicant on 18 September 2026 in the sum of £719.30, confirmed by a screenshot from her banking application.
16. Appropriate accounting had been provided in respect of the outstanding rent as at the date of the application to the Tribunal.
17. The basis for the order for possession on ground 12 was thus established.

Reasons for Decision

18. The order for possession sought by the Applicant was based on the ground specified in the 2016 Act and was properly narrated in the NTL served on the Respondent. The Tribunal was satisfied that the NTL had been served in accordance with the terms of the 2016 Act and that the Applicant was entitled to seek recovery of possession on that ground.
19. The Tribunal accepted the Applicant's evidence regarding the rental arrears. A rent statement setting out the history of the arrears was produced. Since July 2025, the Respondent had failed to pay the full rent as it fell due, and significant arrears had accrued. Before 18 September 2026, the Respondent's most recent payment had been made on 7 July 2026. During the 16 months of the tenancy, the Respondent had made only eight rent payments. The Applicant had sought to engage with the Respondent about the rental arrears and had agreed five repayment plans, each of which was breached almost immediately. Despite the Applicant's efforts to engage with the Respondent, significant sums remained outstanding.
20. The Tribunal was satisfied that the Respondent had been in arrears for a period far in excess of three consecutive months. Approximately seven months' arrears were due. The Tribunal accepted the Applicant's evidence regarding the arrears and found that the Applicant had made appropriate attempts to encourage the Respondent to address them.
21. The level of arrears was not disputed by the Respondent.
22. Ground 12 was accordingly established.

Decision

23. 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, where Lord Greene MR said:

“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 commonsense way as a man of the world, and come to his conclusions 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.”

24. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
25. In this case, the Tribunal finds that it is reasonable to grant the order. The balance of reasonableness weighs in favour of the Applicant.
26. The Respondent was in employment and had no dependants. She had further debts that she was repaying. Although the Respondent initially submitted that she had no other debts, she acknowledged further debts after enquiry. She had lodged a Time to Pay Application offering to repay £100 per month towards the debt and increased that offer to £200 per month at the CMD. The Applicant opposed the offer because repayment would take more than 18 months if no further arrears accrued. As the Respondent had not adhered to previous payment arrangements, the Applicant had no confidence that she would adhere to any time-to-pay arrangement. The Tribunal found these matters compelling in reaching its decision.

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.

C. Chisholm

18/09/26

Legal Member/Chair

Date