



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51(1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/26/1296

Re: Property at 3A Lochlibo Court, Irvine, KA11 1RE (“the Property”)

Parties:

AY Investments Ltd, 10 Piersland Place, Girdle Toll, Irvine, KA11 1QF (“the Applicant”)

Mr Graham Clark, 3A Lochlibo Court, Irvine, KA11 1RE (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction.

Background

1. By application dated 20 March 2026 the applicant seeks an order for eviction, relying on ground 12 (rent arrears for three or more consecutive months) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Notice to Leave with proof of service
 - Pre-action correspondence
 - Rent statement

- Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.
- Photos of the property
- Copy text messages between the parties
- Notice regarding the applicant exercising right of entry to the property under section 28A(3) of the Housing (Scotland) Act 2006

Case management discussion (“cmd”) – 20 August 2026 – teleconference

3. The Director of the applicant company, Mr Summel attended with his solicitor, Mr Ferry, Wallace Hodge Solicitors. The respondent was not present or represented. The Tribunal noted that Sheriff Officers had served papers on the respondent by letterbox delivery on 17 July 2026. The Tribunal was satisfied that the respondent had been properly notified of the cmd and proceeded in his absence in terms of rule 29.
4. Mr Ferry sought an order for eviction. He referred to an updated rent statement that had been submitted which showed that arrears had increased to £5,500. Mr Ferry stated that the applicant resides alone in the tenancy. The applicant is aware that he is in receipt of universal credit and approached the DWP to request direct payment of housing costs however, the respondent had refused the request. Mr Ferry stated that the respondent had previously been an employee of Mr Summel. He had lost his employment in February. The applicant had paid £200 in rent since November 2025. Mr Ferry stated that in addition to the rent arrears there were issues relating to the respondent's conduct in the tenancy, In particular, he had failed to allow reasonable access to the applicant which had led to the applicant applying to the Tribunal separately regarding right of entry. There had also been issues with antisocial behaviour and damage to the property. Mr Ferry referred to photographs that had been submitted showing extensive fire damage to the rear garden of the property and a broken window to the front of the property. Mr Ferry stated that the respondent's conduct was a concern to the applicant. Mr Summel stated that he was aware that the respondent had approached the local authority for assistance. He stated that the was aware that the respondent was still resident in the property as he lived close by.

Findings in fact and law

5. Parties entered into a private residential tenancy agreement with a commencement date of 29 January 2024.
6. Monthly rent due in terms of the agreement is £600, payable in advance on the 1st day of the month.
7. A valid notice to leave was served on the respondent on 17 February 2026.
8. Arrears as at August 2026 amounted to £5,500.
9. The respondent has not made any payments towards the rent or arrears since January 2026.
10. The applicant wrote to the respondent on 26 March 2026 regarding the arrears and providing information and advice.
11. The respondent has not lodged any written defence to the application and did not attend the cmd to oppose an order for eviction being granted.
12. The respondent has failed to allow the applicant reasonable access to the property.
13. The respondent has caused damage to the property including a broken window and extensive fire damage in the rear garden.
14. The respondent lives alone in the property.

Reasons for the decision

15. Rule 17 (4) states:

The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

16. Rule 18 states:

Power to determine the proceedings without a hearing

18.—*(1) Subject to paragraph (2), the First-tier Tribunal—*

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

17. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

18. Ground 12 states:

12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2).

(3) The First-tier Tribunal may find that the ground named by 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.

(4) 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 Ministers in regulations.

19. The Tribunal was satisfied on the basis of the rent accounts that had been lodged that the respondent had been in arrears of rent for a period of three months at the date the notice to leave was served and the date of the cmd.
20. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against.
21. The Tribunal determined that the correspondence sent to the respondent complied with the pre-action protocol which applies to rent arrears evictions. The Tribunal gave significant weight to the fact that the respondent did not attend the cmd to oppose the order for eviction being granted and made no objection to the reasonableness of the order being granted.
22. The Tribunal took into account the high level of arrears, the length of time since the last payment and the fact that no efforts have been made to address the arrears. The Tribunal took into account the total lack of engagement from the respondent including his failure to allow access to the property which had led to a separate right of entry application. The Tribunal gave weight to the fact that the respondent had damaged the property and posed a risk of further damage if the tenancy commenced.
23. The Tribunal noted that the respondent lived alone and was in receipt of universal credit.
24. Taking the foregoing factors into account the Tribunal determined that on balance it was reasonable to grant an order for eviction.

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.

M-C Kelly

Legal Member/Chair

Date: 20 August 2026