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 ("the 2016 Act")

Chamber Ref: FTS/HPC/EV/26/0374

Re: Property at 31E Jasmine Terrace, Aberdeen, AB24 5LA ("the Property")

Parties:

Mr Kenneth Ross, c/o Burnett & Reid LLP, 432 Union Street, Aberdeen, AB10 1TR ("the Applicant")

Mr John Agyeman Prempeh, 31E Jasmine Terrace, Aberdeen, AB24 5LA ("the Respondent")

Tribunal Members:

Alastair Houston (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an eviction order be made in terms of paragraph 12 of schedule 3 of the 2016 Act

1. **Background**

1.1 This is an application under rule 109 of the Chamber rules whereby the Applicant sought an eviction order on the basis of ground 12 of schedule 3, namely, as the Respondent had failed to pay rent due under the private residential tenancy agreement. The application was accompanied by copies of the tenancy agreement between the parties, the notice to leave given to the Respondent, a letter sent to him, notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 and a statement of the rent account. The application was conjoined with application FTS/HPC/CV/26/0375, being an application for a payment order.

1.2 Prior to the Case Management Discussion, the Applicant lodged an up to date rent statement. By email dated 7 August 2026, the Respondent lodged written representations and accompanying documentation.

2. The Case Management Discussion

2.1 The Case Management Discussion took place on 21 August 2026 by teleconference. The Applicant was represented by Mr Taylor of Burnett & Reid solicitors. The Respondent attended personally.

2.2 The Applicant's representative confirmed that the application was insisted upon. The rent arrears were £11,625.00. No rent had been paid since January 2024. The Applicant was aware of the Respondent's position in terms of the apparent issue of non-payment of a grant to the Respondent by the Ghanian government who were sponsoring his studies at the University of Aberdeen. The Applicant had been patient in light of this and had sympathy for the Respondent but, given the level of arrears and length of time without payment, he could not allow the debt to keep increasing further.

2.3 The Respondent confirmed that he accepted that the balance outstanding was £11,625.00. He had come to Aberdeen to undertake a Phd in Environmental Science. He was sponsored by the Ghanian government and, with that sponsorship, ought to have receiving payment of significant sums each academic year towards his living expenses. Under his visa, he was only permitted to work a maximum of twenty hours per week and was reliant on the grant payments. There had been issues with payment of his grant relating to living costs since 2022. He had been expecting £36,000.00 to be received over the course of his studies but had only received £9,000. He had provided documentation verifying his entitlement and ought to be paid the balance. He had not received and firm confirmation of when this would occur. The issues had been exacerbated by a change of government in Ghana in December 2024 with an audit of the relevant department's budget being carried out and delaying payment further. The government representative of the Ghana Scholarships Authority was based in London and he had been attempting to contact them every week. He had completed his studies in January 2026. He worked part time as a catering assistant whilst a student. Since then he had been working as a security guard. He would be paid between £13.00 to £15.00 per hour but would struggle to obtain the maximum twenty hours work, sometimes only earning the equivalent of around ten hours per week. He had no other income and no recourse to public funds and was unable to make payment to the Applicant. He had been applying, and interviewing, for full time positions in academia across the UK. He wanted the Tribunal to delay any eviction until December when he anticipated either being in a position to have cleared the arrears or would be moving elsewhere.

2.4 The Applicant's representative took no issue with that which was said by the Respondent. Assurances regarding the outstanding sums due to the Respondent had previously been given in September 2025 and May 2026 but payment had not materialised hence the present application. The Applicant was not a professional landlord but his representative did not have any information about any immediate financial pressures. The

Applicant could likely accommodate a two month delay in enforcement, should the application be granted.

3. Findings In Fact

3.1 The parties entered into a private residential tenancy agreement which commenced on 27 September 2022. The rent due under the agreement is £375.00 per calendar month.

3.2 The Respondent resides at the Property alone.

3.3 From the commencement of the private residential tenancy, until January 2026, the Respondent was a Phd student at the University of Aberdeen.

3.4 The Respondent completed his Phd in January 2026. Since January 2026, he has been employed on a part time basis as a security guard.

3.5 The Respondent was sponsored as a student by the Ghanian government. As part of that sponsorship, he would receive a grant through the Ghana Scholarships Authority with funding towards living costs.

3.6 The Respondent has not received funds that he was entitled to amounting to £27,000.00. This has caused him financial difficulty and he has been unable to make payment of rent to the Applicant.

3.7 The Respondent has not made payment of rent since January 2024. As at 21 August 2026, the arrears of rent amounted to £11,625.00.

3.8 The Respondent's income is variable from employment and can equate to only ten to fifteen hours per week at £13.00 to £15.00 per hour. He has no access to public funds.

3.9 The Respondent is seeking to obtain full time work and has applied for positions outwith Aberdeen. He is unable to make an offer of repayment of the arrears until his grant funds are either paid or he begins working full time.

3.10 The Respondent has advised the Applicant of the issue with payment of the grant and advised that payment was still to be expected in September 2025 and May 2026.

3.11 Notice to leave dated 19 August 2025 was given to the Respondent. The said notice entitled the Applicant to make an application for an eviction order on or after 19 September 2025 and was in force as at the date of making the present application.

3.12 Notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 was given to the local authority.

3.13 By way of letter dated 23 January 2026, the Applicant's agent wrote to the Respondent providing information regarding the arrears, a copy of the private residential tenancy agreement and information on sources of advice.

4. Reasons For Decision

4.1 The Tribunal considered that there was no dispute between the parties that would necessitate the fixing of a hearing. The Applicant accepted the Respondent's position, who, in turn, did not take issue with the balance of rent arrears said to be outstanding. The Tribunal proceeded to determine the application as it was entitled to do.

4.2 Valid notice to leave had been emailed to the Respondent on 19 August 2026. The said notice to leave was in force as at the date of making the present application. Notice of the application had been given to the local authority as required by section 11 of the Homelessness etc (Scotland) Act 2011.

4.3 Paragraph 12 of schedule 3, being the ground upon which an eviction order is sought, is in the following terms:-

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.
(5)For the purposes of this paragraph—
(a)references to a relevant benefit are to—
(i)a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),
(ii)a payment on account awarded under regulation 91 of those Regulations,
(iii)universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,

(iv)sums payable by virtue of section 73 of the Education (Scotland) Act 1980,
(b)references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.
(6)Regulations under sub-paragraph (4)(b) may make provision about—
(a)information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),
(b)steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,
(c)such other matters as the Scottish Ministers consider appropriate.

It was clear that the Respondent had been in arrears for more than three consecutive months. The only issue for the Tribunal to determine was whether it was reasonable to grant an eviction order.

4.4 The Respondent was not entitled to access public funds. There was, therefore, no issues with delay or failure in the payment of a relevant benefit. At the time of making the application, the Applicant's agent sent a letter to the Respondent containing the necessary information in regulation 4(2) of The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. Further, there had been discussions between the Respondent and the Applicant's agents prior to that regarding the non-payment of the Respondent's grant. By the Respondent's own admission, he was unable to make an offer of payment of the arrears given his income and, as such, there was no plan or proposal for payment. The Applicant had allowed considerable time for the Respondent to resolve the issues with payment of his grant. The Tribunal considered that the Applicant had adequately complied with the pre-action protocol.

4.5 The Tribunal thereafter approached the issue of reasonableness in accordance with the case of *Barclay v Hannah* 1947 SC 245 whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the application was made. The Tribunal placed particular weight on the following factors in determining it reasonable to grant the order sought:

- The level of arrears outstanding;
- The length of time the Respondent had been in arrears;
- The uncertain position regarding payment of the sums the Respondent appeared to be due in respect of his grant;
- The inability of the Respondent to make payment of the ongoing rental charge let alone beginning to reduce the arrears;
- The Respondent had completed his studies which would not be affected by having to remove from the Property.

4.6 The Tribunal also considered the issue of delaying enforcement of the eviction order. The Respondent had sought a delay of around four months. The Applicant's representative indicated they would have no issue with a lesser delay of two months. The Tribunal considered it would be appropriate to order a delay until 30 October 2026. This would allow a final opportunity to the Respondent to make payment, if the issues with his grant were resolved. If not, a longer delay would not be appropriate given that, despite the Respondent no longer being a student, he had not been able to secure sufficient work to meet his ongoing obligation to pay rent.

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.

Alastair Houston

Legal Member/Chair **24 August 2026**
Date