



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”) and Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/26/0751

Re: Property at 22 Galt Road, Musselburgh, EH21 8DJ (“the Property”)

Parties:

Ms Megan Houchin, 1 Castlehill, Elphinstone, East Lothian, EH33 2LU (“the Applicant”)

Paul Williamson, Michelle Williamson, 22 Galt Road, Musselburgh, EH21 8DJ; 22 Galt Road, Musselburgh, EH21 8DJ (“the Respondent”)

Tribunal Members:

Evan Crainie (Legal Member) and Elaine Munroe (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Application should be decided without a Hearing and issued an Eviction Order against the Respondents.

Background

1. By application dated 14 February 2026 (“the Application”), the Applicant sought an Eviction Order against the Respondents under Section 51 of the 2016 Act. The Ground relied on was Ground 12 of Schedule 3 to the Act, namely that the tenant has been in rent arrears for three or more consecutive months.
2. The application was accompanied by copies of:
 - a. Copy Private Residential Tenancy Agreement between the Parties, commencing on 6 February 2025, with a monthly rent of £1,300;
 - b. Copy Notice to Leave dated 12 January 2026 advising the Respondents that an application to the Tribunal for an eviction order

- would not be made before 13 February 2026 together with proof of sending to the Respondents;
- c. Copy notice under Section 11 of the Homelessness Etc. (Scotland) Act 2003 to East Lothian Council being the relevant local authority;
 - d. Rent statement showing rent arrears throughout the majority of the tenancy and arrears amounting to £2,439.83 as at 6 February 2026; and
 - e. Correspondence to the Respondents in respect of the pre-action protocol.
3. On 28 July 2026, the Tribunal advised the Parties of the date and time of a Case Management Discussion ("CMD").

The CMD

- 4. A CMD was held by means of a telephone conference call on 2 September 2026. The Applicant was present. The Respondents were not present but were represented by Eve Alexander of the Citizens Advice Bureau.
- 5. The Tribunal asked various questions of the Applicant and the Respondent's representative with regard to the Application
- 6. The Applicant confirmed that she wished to continue to seek an eviction order. The Respondent's representative sought either a continuation of the CMD to allow for a payment plan to be put in place or an evidential hearing on the reasonableness of granting an eviction order.
- 7. The payment plan offered by the Respondent's was £250 per month towards the arrears, with an additional £100 per month paid as a "top up" to cover the shortfall between the Respondent's Universal Credit ("UC") and the monthly rental amount. This payment plan would be funded from the remaining UC payment and Mrs Williamson's wage.
- 8. The Respondent's representative advised that Mrs Williamson is in full-time work, with Mr Williamson having had to stop working for health reasons. The Respondents have a joint UC claim which covers the majority of the rent. There are three adult children living in the Property alongside the Respondents. The Respondent's representative confirmed that the youngest child was working but she was unsure as to whether the other two children were working. The Respondent's representative confirmed that child benefit is no longer received in respect of any of the children.
- 9. The arrears had arisen as a result of Mr Williamson stopping working and Mrs Williamson beginning to work. This had an impact on the Respondent's UC claim.

10. The Applicant advised that in terms of the payment plan offered at the CMD, she would have been happy if that was manageable for the Respondents. The issue is that payments are not consistent and the Applicant was not convinced that the proposed payment plan would be adhered to beyond a couple of months. The Applicant advised that previous payment plans agreed with the Respondents had not been adhered to and provided written representations in respect of these previous payment plans. The main issue the Applicant had was the lack of communication. Where there had been a shortfall in terms of the rent, this wasn't communicated to the Applicant. Following non-payment, the Applicant has had to take matters into her own hands in terms of arranging for UC to be paid directly to her, despite the Respondents indicating that they would arrange for this.
11. The Applicant withdrew a previous eviction application in respect of the Property as after these previous proceedings were raised and the Council homelessness team became involved, payments of £25 per week began to be paid. As these payments appeared to be being made consistently, the Applicant withdrew the previous eviction application at that time. However, the payments subsequently stopped and there was also a significant shortfall in the rent due for January 2026.
12. The Applicant is a single mother, with delayed payment and the current arrears forming a significant part of her income. She stated that she did not have a huge amount of money and where her income is short as a result of the arrears from this Property, she is unable to carry out repairs on other properties that she rents out. The Applicant has 7 rental properties in total.

Findings in Fact

13. From the Application and the CMD, the Tribunal made the following findings in fact:
 - a. There is a private residential tenancy of the Property between the Parties;
 - b. The correct statutory procedures have been carried out;
 - c. The Respondents have been in rent arrears throughout the tenancy, being more than three consecutive months;
 - d. The Respondents live in the Property with their three adult children;
 - e. The first named Respondent does not work for health reasons but does receive UC;
 - f. The second named Respondent works full time; and
 - g. The Respondents opposed the application on grounds of reasonableness as well as on the basis of the new payment plan offered.

Issue for the Tribunal

14. The issue for the Tribunal was to determine whether or not to grant the Order sought.

15. The Ground on which the Application proceeds is Ground 12 which states:

“(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.”

16. The Tribunal was satisfied that Ground 12 had been met on the basis of the rent statements, written representations and oral submissions of the Applicant. The Respondents had been continuously in arrears of rent since April 2025 and had been made aware of the consequences of their failure to pay rent.

17. Therefore, the statutory ground and procedure being established, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness and so proceeded to determine the Application.

Decision and Reasons for Decision

18. The Tribunal were addressed at the CMD, had explored all of the issues and did not consider that, in the circumstances of this case, an Evidential Hearing would serve any further purpose. Rule 17 of the Rules provides that the Tribunal may do anything at a CMD which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.

19. In terms of the Respondent's representatives request for a continuation of the hearing to allow for the payment plan to be put in place, the Tribunal was not persuaded to continue the CMD. The Tribunal is not a payment monitoring service. It is appropriate that applications such as this are progressed expeditiously. The Tribunal was mindful of the overriding objective to deal with applications justly and avoiding delay. The Tribunal had sufficient information before it to consider the issue of reasonableness. Further, the Tribunal accept the Applicants' desire to draw a line and seek vacant possession at this time. In all these circumstances, the Tribunal decided not to continue the CMD for the payment plan to be set up.

20. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, the written representations lodged on behalf of the Applicant, and the oral information

and submissions provided by the Applicant and the Respondent's representative at the CMD.

21. The Tribunal 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.
22. The Tribunal had regard to the facts that the Respondents had been in arrears since April 2025 and had failed to adhere to previous payment plans. The Tribunal's view is that the level of arrears being £2,463 combined with the failed payment plans and length of time which arrears have existed leads to it being untenable for the Respondents to continue as tenants in the Property. The Tribunal found that the Applicant is entitled to receive payment of rent and that this entitlement outweighs the Respondents' rights to remain in the Property. Accordingly, the Tribunal was satisfied that it is reasonable to issue an Eviction Order.
23. The Tribunal determined that the application be granted and that an eviction order be made. The decision is unanimous.

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.

Evan Crainie

Evan Crainie

02.09.26

Legal Member/Chair

Date