



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/26/1133

Re: Property at 6c Princes Street, Ardrossan, KA22 8GA (“the Property”)

Parties:

Mr Ian Gardner, 50 Falkland Road, Basingstoke, RG24 9PJ (“the Applicant”)

Miss Kayleigh Sim, Richard Saxton, 6c Princes Street, Ardrossan, KA22 8GA (“the Respondent”)

Tribunal Members:

Evan Crainie (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Second Respondent)

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 11 March 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 24 May 2023, with a monthly rent of £800;
 - b. Copy Notice to Leave dated 3 February 2026 advising the Respondents that an application to the Tribunal for an eviction order

- would not be made before 6 March 2026 together with proof of sending to the Respondents;
- c. Copy notice under Section 11 of the Homelessness Etc. (Scotland) Act 2003 to North Ayrshire Council being the relevant local authority;
 - d. Rent statement showing rent arrears amounting to £4,750 as at 1 March 2026; and
 - e. Correspondence to the Respondents in respect of the pre-action protocol.
3. On 4 August 2026, the Tribunal advised the Parties of the date and time of a Case Management Discussion ("CMD").
 4. The Applicant and First Respondent, Miss Kayleigh Sim, both provided written representations before the CMD.

The CMD

5. A CMD was held by means of a telephone conference call on 14 September 2026. The Applicant was not present but was represented by Deborah Styles of Limegreen Estate Agents Ltd. The First Respondent was present and represented by Andrea Gibson of CHAP. The Second Respondent, Richard Saxton was not present and not represented.
6. The Tribunal delayed the beginning of the CMD by ten minutes to allow parties to attend. Regarding the Second Respondent the Tribunal was satisfied, in terms of Rule 29, that the requirements of Rule 24(1) regarding the giving of notice of a hearing had been duly complied with by reason of a sheriff officer certificate of intimation in respect of the Second Respondent. Therefore, the Tribunal proceeded to hear the Application.
7. The Tribunal asked various questions of both the Applicant and the First Respondent's representatives with regard to the Application.
8. The Applicant's representative confirmed that the Applicant wished to continue to seek an eviction order. The Applicant is unable to fund the Property any further and can't retire as a result of having to try and fund the Property. He only rents out this Property and is in dire financial straits as a result of the arrears. The Applicant is concerned that the social housing being offered to the First Respondent may fall through and therefore continues to insist on the eviction order.
9. The First Respondent's representative confirmed that the First Respondent was not opposing the eviction order as the First Respondent has secured social housing with North Ayrshire Council. The social housing had become available as a result of the abandonment procedure and therefore the Council's Building Services team needed to inspect the social housing to ensure it was fit for habitation before it could be handed over to the First Respondent. Given that Building Services still needed to carry out this

inspection, the First Respondent's representative sought an additional 30-day delay in enforcing the eviction order to allow the inspection and handover to take place.

10. The Applicant's representative was asked for their views on the request from the First Respondent's representative regarding a delay in enforcement. The Applicant's representative was opposed to any delay in enforcement as the Applicant believed the situation had been going on for long enough and the Applicant was in a really bad position financially as a result. Possession was therefore sought as soon as possible.
11. The Applicant's representative was questioned in relation to the First Respondent's submission that the Second Respondent had moved out in July 2025, advising the Applicant's representative of this at the time. The First Respondent had also asked at that time that the tenancy be converted into a sole tenancy such that her Universal Credit claim wouldn't be affected.
12. The Applicant's representative confirmed that on receiving this message, the Applicant had no proof that the Second Respondent did remove from the Property. Another application form was received from the First Respondent seeking a sole tenancy. On running credit checks as a result of this application, the Applicant's representative became aware of matters which affected the First Respondent's credit. Alongside this, the Applicant's representative also became aware of a dog within the Property and therefore noted that a pet deposit would need to be paid. The First Respondent had noted she wasn't in a position to pay this pet deposit.
13. As a result of the adverse credit check, pet deposit and no proof that the Second Respondent had removed from the Property, the Applicant did not convert the joint tenancy into a sole tenancy.
14. On questioning from the Tribunal, the First Respondent accepted that she owed money in terms of the rent arrears. She confirmed that she is in full-time employment, currently lives in the Property with a 7-year-old child, does not currently receive benefits due to her wages cancelling this out and neither her nor her child had any health issues that the Tribunal should be aware of.
15. The First Respondent was confident that the social housing being offered to her would meet her and her child's needs. She was happy to move into it.

Findings in Fact

16. From the Application, the written representations 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; and
- c. The Respondents have been in rent arrears for more than three consecutive months.

Issue for the Tribunal

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

18. 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.”

19. 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's representative. The Respondents had been continuously in arrears of rent since November 2025 and had been made aware of the consequences of their failure to pay rent.

20. 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

21. 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. The Applicant and First Respondent did not oppose the making of a decision at the CMD.

22. 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.

23. In terms of the First Respondent's representatives request for 30-day delay to execution of the order, the Tribunal was persuaded that this was reasonable given the fact that there is a seven-year-old living with the First Respondent. It also allows for the Council to carry out the checks of the property being

offered to the First Respondent. Should those checks be carried out before the end of the additional period granted for execution of the eviction order then the Applicant may receive possession of the Property earlier in any event.

24. 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 First Respondent, and the oral information and submissions provided by the Applicant's representative and the First Respondent's representative at the CMD.
25. 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.
26. The Tribunal had regard to the facts that the Respondents had been in arrears since November 2025 and had failed to adhere to previous payment plans. The Tribunal also considered the fact that the First Respondent did not oppose the Application. The Tribunal's view is that the level of arrears being £10,450 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.
27. 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

14.9.26

Legal Member/Chair

Date