



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

Chamber Ref: FTS/HPC/EV/26/1201

Re: Property at 31 Hepburn Crescent, Arbroath, DD11 5HP ("the Property")

Parties:

Mr Michael Ward, Mrs Janet Ward, 174 Long Lane, Broughty Ferry, Dundee, DD5 2EF ("the Applicant")

Ms Shirley Ann Clark, 31 Hepburn Crescent, Arbroath, DD11 5HP ("the Respondent")

Tribunal Members:

Hilary Macandrew (Legal Member) and Frances Wood (Ordinary Member)

Decision ; In absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an Eviction Order be granted.

1) Background

- 1.1 By Application dated 12th March 2026 the Applicant sought an order under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.
- 1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 22nd April 2026.
- 1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 10th August 2026.
- 1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-

- Private Rental Tenancy agreement
- Notice to Leave ('NTL') and proof of service
- Section 11 Notice
- Rent Statement

1.5 A Case Management Discussion was set to take place on 15th September 2026.

2) The Case Management Discussion ('CMD')

2.1 The CMD took place by tele conference on 15^h September 2026. The Applicants took part along with their Representative Mr Myles, Solicitor. The Respondent was neither present nor represented. The start of the CMD was delayed to allow the Respondent more time to take part but she did not.

2.2 The Applicant sought the Eviction Order based on Ground 1 of Schedule 3 of the Act.

2.3 Mr Myles explained that the Applicants wish to sell the property. They have instructed his firm to attend to the sale once the property is empty. The Applicants are retired and they wish to sell the property to fund their retirement and to provide financial assistance to their family. They have two properties in addition to their home. They wish to sell this property as they inherited the other property and may downsize to it in the future.

2.4 Mr Myles explained that the Respondent was not paying the current rent of £624.78 per month. She had accumulated arrears at the date of the Application of £2,934.80 which have since risen to £4,953.48. The Applicants are suffering financially due to the Respondent's non-payment of rent.

2.5 The Respondent is a single middle aged lady. She has no dependents living in the property. She has been employed and has also been in receipt of benefits during the tenancy. She is currently not engaging with the Applicant nor their representative. There are no known vulnerabilities or disabilities.

2.6 Rule 17 of the First-Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 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.

3) Findings in Fact and Law

3.1 The Tenancy agreement is a Private Rental Tenancy Agreement which commenced on 3rd May 2018.

3.2 On 29th July 2025 the Applicant served Notice to Leave on the Respondent under Ground 1 of Schedule 3 to the Act. It was served by email on 29th July

2025 and posted by recorded delivery 30th July 2025. Postal service was effected on 1st August 2025. The Notice to Leave became effective from 30th November 2025. The Notice was correctly drafted and provided sufficient Notice.

3.3 The Applicant is seeking to recover possession to sell the property.

3.4 The basis for the Order for possession was accordingly established.

4) Issue For The Tribunal

4.1 The issue for the Tribunal is to determine whether or not it is reasonable to grant the Order.

4.2 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah 1943 SC 245* whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the Application was made.

4.3 The Tribunal found that the Applicant is entitled to recovery of the property. They have engaged a solicitor to deal with the sale. The Applicants demonstrated that they wish to sell the property. They are retired. Furthermore the Respondent has accumulated significant arrears of rent. The Respondent is not paying the current rent in full. The Applicants are suffering financially from non-payment of rent to which they are lawfully entitled.

4.4 Accordingly, the Tribunal was satisfied that it is 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.

Legal Member/Chair

Date