

**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/26/1498

Re: Property at Courthill Smithy, Keir, Thornhill, DG3 4DD (“the Property”)

Parties:

Mr Robert Gladstone, Capenoch House, Penpont, Thornhill, DG3 4LZ (“the Applicant”)

Miss Elaine Sarah Marianne McArdle, Flat 1/2, 85 Niddrie Road, Glasgow, G42 8PR (“the First Respondent”)

Mr Alexander James Simpson, UNKNOWN, UNKNOWN (“the Second Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr A Lamont (Ordinary Member)

Decision (in absence of the Second Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted.

Background

1. This is a Rule 109 application whereby the Applicant is seeking an eviction order under ground 12. The Applicant representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 15th June 2022 at a monthly rent of £800, a notice to leave with evidence of service, a section 11 notice with evidence of service, and a rent statement showing arrears of £2661 to 15th February 2026.
2. Service of the application and notification of a Case Management Discussion was made upon the First Respondent by Sheriff Officer on 21st August 2026.
3. Service of the application upon the Second Respondent took place by Service by Advertisement on the website of the Housing and Property Chamber from 20th August to 14th September 2026.

4. By email dated 1st September 2026, a representative for the First Respondent made written representations and lodged productions, to the effect that the First Respondent left the Property in February 2025, giving notice to the Applicant at that time. An email between the parties showed that the Applicant indicated that nothing further required to be done at that time.

The Case Management Discussion

5. A Case Management Discussion ("CMD") took place by telephone conference on 14th September 2026. The Applicant was not in attendance. The First Respondent was in attendance. The Tribunal Clerk called the Applicant representative, Ms Fox, Solicitor, who then joined the line. The Second Respondent was not in attendance.
6. The Tribunal considered the terms of Rule 29 of the Procedural Rules. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Second Respondent.
7. Ms Fox confirmed that she had not received notification of the CMD. Neither had she received the First Respondent's productions and representations of 1st September 2026. The Legal Member appraised Ms Fox of the content of the productions and representations. Ms Fox confirmed that she was content to proceed with the CMD.
8. The First Respondent reiterated her position that she ought not to be a party as she had left the Property in February 2025. It was her position that the joint tenancy had been legally terminated at that time. She had given notice to the Applicant in writing, and had relied upon the statement from the Applicant that nothing further was required to discharge her from the tenancy agreement. The First Respondent said there were no rent arrears during her tenancy. After leaving, she had tried to assist the Applicant in finding the Second Respondent. She had helped the Second Respondent to make rent payments. She has heard nothing from the Second Respondent in 9 months.
9. The Tribunal suggested an adjournment to allow Ms Fox to take her client's instructions on the matter of the joint tenancy. The First Respondent said she was not in a position to leave the call and rejoin, as suggested, so Ms Fox left the line, and the Tribunal and First Respondent remained on mute until Ms Fox rejoined.
10. Ms Fox said the Applicant confirmed the First Respondent's position that she had left the Property in February 2025, and that he had informed her that nothing further required to be done to end the tenancy. However, thereafter, nothing further was done to end the tenancy, so the joint tenancy had not been brought to an end.

11. The Legal Member explained that, as the joint tenancy was not formally brought to an end as required by the relevant legislation, through no fault of the First Respondent, she remained a joint tenant. The First Respondent declined to comment any further at this point.
12. Ms Fox submitted that it was reasonable to grant an order. The First Respondent left the Property in February 2025. The Second Respondent left the Property around September 2025. The Applicant has been unable to recover the Property or rent it out again. There is no one living in the Property. No rent is being paid for the Property.
13. The First Respondent declined to comment when invited to do so.

Findings in Fact and Law

14.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 15th June 2022 at a monthly rent of £800.
 - (ii) The Applicant has served a Notice to Leave upon the Respondents.
 - (iii) The Respondents have accrued rent arrears.
 - (iv) The Respondents have been in rent arrears for three or more consecutive months.
 - (v) The Respondents being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
 - (vi) The Respondents no longer reside at the Property.
 - (vii) It is reasonable to grant an eviction order.

Reasons for Decision

15. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if for three or more consecutive months the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that Ground 12 has been established.
16. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the

Respondents were in rent arrears as a result of a delay or failure in the payment of a relevant benefit.

17. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. The Tribunal was not provided with any evidence that the Applicant has complied with the pre-action protocol by sending correspondence to the Respondents.
18. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
19. The Applicant has suffered financially as a result of the Second Respondent's failure to pay the rent and address the arrears. He has not been able to let the Property while the tenancy continues. The arrears of £2661 at 15th February 2026 have increased monthly by the rental amount of £800. If no order is granted, the situation will continue.
20. The Respondents are not living in the Property. The whereabouts of the Second Respondent are not known. It would appear that he abandoned the Property a year ago.
21. The Tribunal noted that the First Respondent was not responsible for the rent arrears, as they arose after she left the Property. The First Respondent believed, in good faith, that she was no longer a tenant of the Property. Despite her refusal to comment on reasonableness, the Tribunal was entitled to take into account the previous representations made that the First Respondent does not live in the Property. There was no indication that the First Respondent wishes to live in the Property.
22. In all the circumstances, the Tribunal considered it was reasonable to grant the order sought.

Decision

23. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 14th October 2026.

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.

H Forbes

Legal Member/Chair

14th September 2026
Date