



**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/26/0721

Re: Property at 1 Harthall, Ayr, South Ayrshire, KA8 0PB (“the Property”)

Parties:

Mr Gary Douglas, PO Box 1082, Mutare, Zimbabwe (“the Applicant”)

Mr Francis Sweeney, 1 Harthall, Ayr, South Ayrshire, KA8 0PB (“the Respondent”)

Tribunal Members:

Hilary Macandrew (Legal Member) and Melanie Booth (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

By Application dated 13th February 2026 the Applicant sought an order Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

- 1.1 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 8th May 2026.
- 1.2 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 12th August 2026.
- 1.3 The Applicant lodged the following documents in advance of the case management discussion (CMD):-

- Private Residential Tenancy agreement
- Notice to Leave and proof of service
- Section 11 Notice and proof of service
- Rent Statement and Updated Rent Statement
- Pre Action correspondence

1.4 A Case Management Discussion was set to take place on 2nd October 2026. Intimation was given to the Respondent by Sheriff Officers on 12th August 2026.

2) The Case Management Discussion ('CMD')

2.1 The CMD took place by tele conference on 2nd October 2026. The start was delayed by five minutes to allow the Respondent time to take part. The Applicant did not take part. He was represented by Mr Ferry of Wallace Booth Solicitors. Ms McMillen, a Trainee with Wallace Booth Solicitors observed. The Respondent was neither represented nor took part. He had lodged no documentation in advance with the Tribunal

2.2 Mr Ferry sought the Eviction Order based on Ground 12 of Schedule 3 of The Act.

2.3 Mr Ferry made reference to the rent statement lodged with the application and updated rent statement lodged in advance of the CMD. When the Notice to Leave was served on 10th November 2025, there had been more than three months of unpaid rent. The arrears stood at £2,600. When the Application was submitted the arrears stood at £4550. At the date of the CMD the arrears had increased to £8,550 as shown in the updated rent statement. The rent statement and updated rent statement demonstrated that the rent had been continually in arrears since June 2025. Only one payment of the full monthly rent had been paid since then and one small part payment.

2.4 The Applicant and his siblings who had consented to the Application being made by the Applicant inherited the property from their late parents. The property is a two bedroom house with garden. The Applicant is a land lord in respect of this property only. The Applicant lives and works abroad. The Applicant and his siblings are suffering financially by the burden of maintaining the property yet receiving no rent. The Applicant employs a letting agent. The Respondent is not engaging with the letting agent.

2.5 Mr Ferry was asked about the circumstances of the Respondent. He is a single man who lives alone. He is a self-employed joiner. He has not co-operated with routine arranged property inspections on 21st October 2025, 13th January 2026, 12th February 2026, 21st April 2026 and 3rd September 2026. He sent an e mail to the letting agent in 2025 stating that he had some personal problems but has not otherwise engaged nor addressed the arrears of rent nor the ongoing rental payments. There is no known disability or vulnerability of the Respondent which would affect his ability to pay rent. There has been no suggestion that the Applicant is entitled to or in receipt of benefits. Pre Action correspondence had

been issued by the Applicant to the Respondent and was lodged with the Application.

- 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 CMB 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 Private Rental Tenancy Agreement commenced on 11th April 2025.
- 3.2 On 13th November 2025 a Notice to Leave was served on the Respondent by Sheriff Officers. This came into effect on 13th December 2025
- 3.3 The Notices was correctly drafted and provided sufficient Notice.
- 3.4 The Respondent was more three months in arrears of rent at the time the Notice to Leave was served and at the time these proceedings were raised. The Respondent was in arrears at the date of the CMD. Ground 12 was established.
- 3.5 The basis for the Order for possession was accordingly established.

4) Issue For The Tribunal, Decision and Reasons

- 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. The Tribunal had regard to the level of rent arrears, the lengthy period over which the arrears had accumulated and the circumstances of the Applicant. The Tribunal had regard to the fact that the Respondent had lodged no opposition to the Application, was not engaging with the Applicant and neither took part nor was represented at the CMD. The Tribunal took account of the circumstances of the Respondent, as far as the Applicant and his representative were aware.
- 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.

Hilary Macandrew

**H Macandrew
Legal Member/Chair**

**2nd October 2026
Date**