



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/26/1163

Re: Property at Flat 8, 59 Pennywell Road, Edinburgh, EH4 4WR (“the Property”)

Parties:

Edinburgh Living MMR LLP, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG (“the Applicant”)

Mr Arran Foster, Flat 8, 59 Pennywell Road, Edinburgh, EH4 4WR (“the Respondent”)

Tribunal Members:

Evan Crainie (Legal Member) and Sandra Brydon (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 Respondent.

Background

1. By application dated 11 March 2026 (“the Application”), the Applicant sought an Eviction Order against the Respondent 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, commencing on 10 October 2022, with a monthly rent of £560;
 - b. Copy Notice to Leave dated 24 October 2025 advising the Respondent that an application to the Tribunal for an eviction order would not be

- made before 24 November 2025 together with proof of sending to the Respondent;
- c. Copy notice under Section 11 of the Homelessness Etc. (Scotland) Act 2003 to City of Edinburgh Council being the relevant local authority;
 - d. Rent statement showing rent arrears amounting to £16,273 as at 1 March 2026; and
 - e. Correspondence to the Respondent in respect of the pre-action protocol.
3. On 15 August 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 09 October 2026. The Applicant was represented by Miss Caroline Morrison and Miss Claire Smith of Umega Lettings. The Respondent was present.
- 5. The Tribunal asked questions of both the Applicant's representatives and the Respondent with regard to the Application.
- 6. The Applicant's representative confirmed that the Applicant wished to continue to seek an eviction order.
- 7. The Respondent confirmed he was not opposing the eviction order and was going to move back in with his mother.
- 8. On questioning from the Tribunal, the Respondent accepted that he owed money in terms of the rent arrears. He confirmed that he lives in the Property on his own, is not currently working and is in receipt of Universal Credit. He has had work before labouring. The Respondent made the Tribunal aware of the health issues that he had.
- 9. It was explained to the Respondent that if an eviction order was granted then it is normally enforceable within 30 days. The Respondent was asked if he wished to seek an extension to execution of the eviction order. The Respondent confirmed that he did not wish to seek an extension.

Findings in Fact

10. 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 Respondent has been in rent arrears for more than three consecutive months.

Issue for the Tribunal

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

12. 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.”

13. 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 Respondent had been continuously in arrears of rent since on or around June 2023 and had been made aware of the consequences of his failure to pay rent.

14. 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

15. 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 Respondent did not oppose the making of a decision at the CMD.

16. 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.

17. 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's representative and the Respondent at the CMD.

18. 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.

19. The Tribunal had regard to the facts that the Respondent had been in arrears since June 2023 and had failed to adhere to previous payment plans. The Tribunal also considered the fact that the Respondent did not oppose the Application. The Tribunal's view is that the level of arrears being £19,991 combined with the failed payment plans and length of time which arrears have existed leads to it being untenable for the Respondent to continue as a tenant in the Property. The Tribunal found that the Applicant is entitled to receive payment of rent and that this entitlement outweighs the Respondent's rights to remain in the Property. Accordingly, the Tribunal was satisfied that it is reasonable to issue an Eviction Order.
20. 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

09.10.2026

Legal Member/Chair

Date