Housing and Property Chamber
First-tier Tribunal for Scotland

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

Chamber Ref: FTS/HPC/EV/26/0364

Re: Property at 8 Station Park, Lower Largo, Fife, KY8 6DP ("the Property")

Parties:

Mrs Louise Patrick, 7 Crusoe Gardens, Lower Largo, Fife, KY8 6HT ("the Applicant")

Mr Brian Cairncross, 8 Station Park, Lower Largo, Fife, KY8 6DP ("the Respondent")

Tribunal Members:

Martin McAllister (Legal Member) and Greig Adams (Ordinary Member) ("the tribunal")

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order of eviction should be granted against the Respondent

Background

1. On 23 January 2026, the Applicant submitted an application to the First-tier Tribunal for Scotland seeking an order of eviction.

2. On 13 February 2026, the application was accepted for determination by the Tribunal.

3. A case management discussion was held by audio conference on 7 July 2026.

The case management discussion

4. Mrs Patrick and Mr Cairncross participated in the case management discussion.

5. Mrs Patrick said that she was seeking an order of eviction in terms of Ground 12, Part 3 of Schedule 3 of the 2016 Act. She said that the monthly rent of £495 was in arrears for more than three months.

6. Mrs Patrick said that there had been rent arrears of £2474 at the time the notice to leave had been served, and that they were currently £2969. Mr Cairncross accepted the level of rent arrears stated by Mrs Patrick.

7. The tribunal explained to parties that, even though the ground for eviction might be met, it had to consider whether it was reasonable to grant the order of eviction.

8. Mrs Patrick said that the Property is the only property she lets out. It is mortgaged and the payment is around £150 per month, and the insurance cost is around £40 per month.

9. Mrs Patrick said that the Respondent had fallen into arrears in the past but had managed to "sort things out." She said that he fails to respond to communications from her. Mrs Patrick said that she had been trying to get the Respondent to reply to her so that the gas safety inspection could be carried out.

10. Mrs Patrick said that the rent is now being paid, but that the arrears had increased from the date of the application because a rent payment had been missed in January 2026.

11. Mr Cairncross said that he lives in the Property on his own and that the arrears of rent had accrued because of severe financial difficulties which he had experienced.

12. Mr Cairncross said that he suffers from severe depression and social anxiety and that this had prevented him from addressing the issue of rent arrears. He said that he would be happy for the housing component of his Universal Credit to be paid direct to his landlord.

13. Mr Cairncross said that he was hopeful that a family member could pay the arrears of rent. When asked why no approach to that person had been made before the hearing, Mr Cairncross said that he needed a "wake up call" and had not made the approach sooner. He said that he was confident that the arrears

could be paid and he also mentioned the possibility of making an approach to his local council to ascertain if assistance might be available. Mr Cairncross said that he had not previously sought advice from any advice agency.

14. The tribunal noted that the monthly rent was being paid and that the Respondent had intimated that he would take steps to address the arrears of rent.

15. The tribunal did not consider that it had sufficient information to make a determination on whether it was reasonable to grant the order of eviction, and adjourned the matter to a hearing.

Hearing 26 October 2026

16. A teleconference hearing was held on 26 October 2026. The Applicant and Respondent were present.

Preliminary Matters

17. On 5 October 2026, the Applicant submitted an email with a "Landlord Impact Statement" and a rent statement. The Respondent confirmed that he had received a copy of it.

18. Mrs Patrick was asked to confirm if the current level of arrears was £4454 which was the sum shown in the rent statement. She said that, at 9am that morning, Mr Cairncross had paid her the sum of £1980 which reduced the level of arrears to £2969.

19. Mrs Patrick confirmed that she was still seeking an order of eviction.

20. Documents before Tribunal

(i) Private residential tenancy agreement dated 9 March 2020.
(ii) Copy Notice to Leave dated 15 December 2025.
(iii) Copy Section 11 intimation to local authority dated 23 January 2026.
(iv) Rent statement.
(v) Copy of letters by the Applicant to the Respondent signposting him to advice agencies who may be able to assist him.
(vi) Landlord Impact Statement dated 5 October 2026.
(vii) Rent statement from 9 March 2020 to 8 October 2026.

21. The Law

Section 51 of the 2016 Act:

First-tier Tribunal's power to issue an eviction order

(1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may or must find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

Ground 12, Part 3 of Schedule 3 of the 2016 Act

Rent arrears

(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2) *repealed*

(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.

(5) For the purposes of this paragraph—

(a) references to a relevant benefit are to—

(i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),

(ii) a payment on account awarded under regulation 91 of those Regulations,

(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,

(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,

(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.

(6) Regulations under sub-paragraph (4) (b) may make provision about—

(a)information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),

(b)steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

(c)such other matters as the Scottish Ministers consider appropriate.

Respective position of the parties in relation to Ground 12

22. The Applicant said that the rent statement showed that the Respondent was in rent arrears of £2474 at the time the notice to leave had been served and that this had increased to £2969 on the date that the application had been made to the Tribunal. She submitted that this was proof that the terms of the ground had been met, since the monthly rent was £495.

23. Mr Cairncross said that he accepted that the level of rent arears in the rent statement was correct.

Determination

24. The tribunal accepted that the Respondent had been in rent arrears for three or more consecutive months, and that the requirements of Ground 12 were met.

25. Having found Ground 12 to be met, the tribunal then addressed the issue of reasonableness.

Reasonableness

26. Mr Cairncross said that he has been "severely affected by the situation he finds himself in." He said that his health has deteriorated and that he is currently consulting his GP and a specialist.

27. Mr Cairncross said that he has debts of around £24000 and was considering making himself bankrupt. He said that he is now in touch with the social work department of the local council and that an advocate is to be allocated to him because he is a vulnerable person.

28. Mr Cairncross said that he has now accepted that he needs to move from the Property and that that if the date for him vacating the Property was 8 March 2027, it would give him time to address health and other issues. He said that he wants to relocate to Leven.

29. Mr Cairncross said that, around six weeks prior to the hearing, he had provided details to Mrs Patrick which would enable her to get rent paid to her direct from his Universal Credit benefit.

30. Mr Cairncross said that his father had given him the funds to enable him to make the payment of £1980 to Mrs Patrick. It was pointed out to Mr Cairncross that, at the case management discussion, he had said that he was confident that he would get funds to enable the arrears to be repaid. He said that he had a lot of things to deal with and that his mental health had not been good.

31. Mr Cairncross said that the rent is due on the 9th of each month, but that he planned to make a payment of £495 on 30 October 2026. He said that he would then make regular monthly payments until he left the Property in March 2027.

32. Mrs Patrick said that the Property is the only property she lets out. It is mortgaged and the payment is around £100 per month and, in addition, she has to pay for buildings insurance and gas and electric checks.

33. Mrs Patrick said that she had no confidence in the Respondent's undertaking to pay the rent timeously if he were allowed to remain in the Property until March 2027. She said that the rent statement shows the failure of the Respondent to make payments of rent over many years. She said that, significantly, monthly payments of rent had not been paid since the case management discussion.

34. Mrs Patrick referred to the statement which she had submitted on 5 October 2026. This stated that the rent from the Property is a constituent part of her income stream since she works part time to facilitate childcare for her two children. The statement referred to the Applicant having no disposable savings and that the loss of rental income from the Property has necessitated her postponing or declining to make certain financial commitments. The statement refers to the emotional pressure on the Applicant as a result of the Respondent failing to pay rent timeously, and to the detrimental effect on her health.

35. Mrs Patrick said that she had not made application to Universal Credit for rent to be paid direct. She said that she was hopeful that an order of eviction would be made which would obviate the need for that.

36. Mrs Patrick said that she had difficulties in getting access to the Property for the necessary gas and electric checks which she was required to have done. She said that a gas engineer had been cancelled on the day of a scheduled inspection.

37. When asked about the cancelled gas inspection, Mr Cairncross said that he had to do this because of a "family emergency" but was not prepared to give more details.

38. Mr Cairncross said that he lives in the Property on his own. He said that the arrears of rent had accrued because of severe financial difficulties which he had experienced.

39. Mr Cairncross said that he suffers from severe depression and social anxiety and that this had prevented him from addressing the issue of rent arrears. He said that he would be happy for the housing component of his Universal Credit to be paid direct to his landlord.

Discussion and Determination

40. The requirements of Ground 12 had been met. This had been confirmed at the case management discussion and the Respondent took no issue with this.

41. A determination of reasonableness is a matter of balance and is an exercise of judicial discretion.

42. Payment of rent is contractual. A landlord is entitled to expect that a tenant will comply with the obligations of the tenancy agreement. At the case management discussion, the tribunal had regard to the fact that the Respondent had been paying rent for the previous five months, and that he indicated that the rent arrears could be repaid. The rent statement shows that no payment of rent had been made since the date of the case management discussion until a payment of £1980 had been made on the morning of the hearing.

43. The tribunal noted that the Respondent stated that he would pay rent regularly until March 2027. It preferred to accept the submission of the Applicant that, based on the Respondent's failure to pay rent from July to October 2026, there was no certainty that the Respondent would pay rent from October 2026 to March 2027.

44. The tribunal noted the Respondent's personal circumstances with regard to his financial and health issues. It accepted that the Respondent had and is experiencing problems.

45. The tribunal had regard to the written submission of the Applicant, and to her oral evidence. It noted the financial and other pressures which she was experiencing as a consequence of the Respondent's failure to pay rent.

46. The tribunal placed more weight on the Applicant's position and considered it reasonable that the order of eviction should be granted.

47. The tribunal considered the Respondent's submission that, effectively, any eviction should be postponed until March 2027. The Respondent had provided no persuasive evidence that this should be done. The tribunal determined that it was reasonable for the Applicant to recover possession of the Property as soon as possible, so that she could put it on the rental market and receive regular and certain income from it.

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.

Martin J. McAllister
Legal Member
2 November 2026