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 Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act")

Chamber Ref: FTS/HPC/EV/26/2434

Re: Property at 64 Burnvale, Livingston, EH54 6DH ("the Property")

Parties:

Mrs Anne Todd, 19 Tennent Park, Mid Calder, Livingston, West Lothian, EH53 0RF ("the Applicant")

Ms Erika Skanaite, Mr Raimondas Jurcenko, 64 Burnvale, Livingston, EH54 6DH ("the Respondent")

Tribunal Members:

Elaine Paton (Legal Member) and Elaine Munroe (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 should be granted against the Respondent in favour of the Applicant.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and Ground 12 of Schedule 3 of the 2016 Act. A tenancy agreement, Notices to leave, rent arrears statement and bank statements, section 11 notice and evidence of compliance with the rent arrears pre-action protocol were lodged.

2. A copy of the application was served on the Respondent by Sheriff Officers on 18 August 2026, together with an application for a payment order under Chamber reference CV/26/2970. The parties were notified that a case management discussion ("CMD") would take place by telephone conference call on 04 November 2026 at 2pm and that they were required to participate. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing an eviction order. The parties were also

advised that if they did not attend the CMD this would not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Respondent was given an opportunity to submit written representation in response to the application by 05 September 2026 but did not do so by that date. No representation was received from the Respondent in advance of the CMD. On 08 October 2026, the Applicant lodged an updated arrears statement which had been sent to the Respondent on even date. No further submission was received from the Applicant in advance of the CMD.

3. The CMD took place on 04 November 2026. The start time was delayed by approximately 10 minutes to allow the Respondent an opportunity to attend in the event they may have been making efforts to dial into the teleconference call. The Applicant was present together with her husband Andrew Todd. The Respondent did not participate. For the avoidance of doubt the following constitutes a summary of the key elements of the discussion and is not a verbatim account of the proceedings.

Summary of Discussion

4. The Legal Member made introductory comments including explanation on the purpose of the CMD, and the Tribunal noted from the Applicant that she wished her husband to speak on her behalf and she was able to clarify any matters arising.

5. In response to the Tribunal, the Applicant's husband ("Mr Todd") stated the second named respondent Raimondas Jurcenko had rented the Property from the Applicant for approximately five years prior to commencement of the present tenancy arrangement, during which period there had been changes in his personal relationship circumstances ultimately resulting in the first named respondent Erika Skanaite moving into the Property. Around that time the tenancy arrangement was updated and is reflected in the present tenancy agreement which commenced on 26 April 2023. Responding further to the Tribunal, Mr Todd confirmed the updated arears statement lodged on 08 October 2026 was emailed to the Respondent on the same day. The Tribunal noted that in terms of bank statements produced amongst the application papers the Respondent paid £695 on 27 October 2025 then a further £695 on 29 December 2025 (identified by the Applicant as a late payment of the November 2025 rental charge); and in terms of the arrears statement the Respondent has been in arrears since 26 December 2025. Mr Todd stated two payments of £66.70 and £625 were received on 11 September 2026 after the Respondent had claimed universal credit, thus a total £691.70, and the arrears balance was £4,913.30 at 26 September 2026. Mr Todd stated a further £691.70 was received on 12 October 2026 and the rental charge of £700 fell due on 26 October 2026, leaving the account balance today at approximately £4,920. Mr Todd stated the Applicant believes the Respondent is still residing in the Property as there has been no correspondence received to suggest otherwise, explaining that the Respondent had not replied to correspondences issued to them over several months now and the Applicant had been unable to access the Property to carry out an inspection albeit she

had been able to satisfy the landlord's statutory obligations. The Gas Safety Check had been completed approximately a month earlier and the Gas Engineer reported to the Applicant that the Property seemed to be occupied. Responding to the Tribunal, Mr Todd stated the Applicant had issued correspondences in terms of the pre-action protocol and she had tried to engage the Respondent to resolve the arrears via emails and messages. Mr Todd explained the Applicant had tried to work with the Respondent and be reasonable and flexible including agreeing a payment proposal made by the Respondent which they then did not follow up on. Mr Todd stated the arrears continued to grow and the Respondent stopped responding to the Applicant. In response to the Tribunal, Mr Todd stated the Applicant's last contact with the Respondent was via WhatsApp on 04 June 2026 when they had made a payment to the rent account. Mr Todd stated that previously the Respondent had been a fairly reasonable tenant, the communications had been good and although there had been arrears of rent this tended to be repaid. Mr Todd stated there was a change in the Respondent's attitude after there had been discussion last year about an increase in the rent as this had remained the same since 2023 and the Respondent had not reacted well to that. Mr Todd further stated: the Applicant had received complaints alleging a strong smell of cannabis coming from within the Property and that the Respondent is keeping two or three dogs which is contrary to the tenancy conditions. Responding to the Tribunal, Mr Todd stated the Applicant was aware that Erika had one daughter, believed to be in her late teens, who had lived in the Property at one point a couple of years ago when she was high school age.

6. Mr Todd stated that the Applicant owns one other rental property which is occupied by model tenants who pay their rent on time and are responsive in communications with the Applicant. Mr Todd stated the Applicant relies upon the rental income from both properties as her only source of income, she is 60 years old and seeking to retire. Mr Todd stated the situation is emotionally stressful for the Applicant and she is under financial pressure as there is a mortgage over the Property and she cannot continue to sustain the current position.

7. In response to the Tribunal, for the Applicant, Mr Todd stated: the respondents are believed to be in their late 30s/early 40s; they are not believed to have any health issues or vulnerabilities; the second named respondent Raimondas Jurcenko is believed to be in employment said to have worked as a labourer and other similar employment, and at one time worked in a petrol station however the Applicant is unaware for certain of his current employment status; and the first named respondent Erika Skanaite is not believed to be employed however she had previously worked part-time from the Property. Responding further, Mr Todd stated the Applicant is aware the Respondent has made inquiries about alternative accommodation, in particular social housing, as she received a call from the local homelessness department earlier in the year as the Respondent was seeking accommodation having mentioned to them the flat was not fit for habitation. When the Applicant asked about this, it emerged the Respondent was actively looking for alternative accommodation after receiving a message about their rent being late in January 2026, and they had approached the local authority

however due to a shortage of housing they were informed unless they were evicted the local authority could not find them a house.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.

2. The Respondent is the tenant of the Property in terms of a private residential tenancy agreement which commenced on 26 April 2023.

3. The calendar monthly rental in terms of the tenancy agreement is £700. There have been no rent increases therefore the Respondent is due to pay the ongoing rent of £700 per calendar month until termination of the tenancy.

4. The Respondent has been in arrears of rent since 26 December 2025 with payments made late and sporadically after months of non-payment. Payments of £600, £95, and £700 were received into the rent account on 01 June 2026, 04 June 2026 and 29 July 2026 respectively, and two further payments of £66.70 and £625 were received on 11 September 2026.

5. The present balance on the rent account is said to be £4,920 (after further payment(s) in the sum £691.70 was received on 12 October 2026 and the monthly rental charge applied on 26 October 2026). The Respondent owed £2,800 when the Notice to Leave was served on 25 April 2026; £4,200 when the present application was lodged on 29 May 2026; and £4,913.30 as at 26 September 2026 in terms of an updated statement emailed to the Respondent and to the Tribunal on 08 October 2026.

6. The Applicant made efforts to engage the Respondent regarding their rent arrears however the Applicant received little or no response(s) from the Respondent since 04 June 2026.

7. The Respondent resided in the Property when the tenancy commenced and is still believed to be residing in the Property to date.

Reasons for Decision

8. The application was submitted with a copy signed Private Residential Tenancy agreement. The Respondent has resided at the Property since at least 26 April 2026. The second named Respondent has resided in the Property for approximately eight years under various earlier tenure arrangements.

9. The application was also submitted with a Notice to Leave dated 25 April 2025, together with a copy certificate of posting of even date and Royal Mail delivery report which establishes that the Notice was served on 25 April 2026 and received by the Respondent on 27 April 2026. The Notice states that an application to the Tribunal is to be made on ground 12 (rent arrears over three consecutive months) and sets out an explanation of the arrears by reference

to the terms of the tenancy agreement.

10. The application to the Tribunal was made after expiry of the notice period specified in the Notice to Leave. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.

11. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."

12. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states "(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in 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." Sub-Paragraph (4) states, "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 Minister in regulations." Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant's rights in relation to eviction proceedings and how the tenant can access information and advice.

13. The Tribunal accepted the unchallenged evidence lodged by the Applicant in the form of the documents submitted and the unchallenged information provided in oral submission by Mr Todd, for the Applicant, at the CMD today. The Tribunal is satisfied that the balance of unpaid rent due by the Respondent at 26 September 2026 is £4,913.30, the Respondent is aware of that sum, and that they have been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and today's CMD. Ground 12 is therefore established.

14. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -

    (a) The Tribunal is satisfied that the Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant provided copies of correspondences issued to the Respondent in compliance with the protocol.

(b) The Tribunal is also satisfied that there is no evidence to contradict the Applicant's belief that the Respondent is not presently in receipt of any additional benefits; therefore, there is no evidence the arrears may be attributable to a delay or failure in the payment of a relevant benefit.

(c) The Respondent did not participate in the CMD today or notify the Tribunal if the application was opposed.

(d) The Tribunal noted the Respondent did not follow through on a payment plan proposed by them in May 2026 and agreed by the Applicant. The Tribunal is satisfied no payments are being made by the Respondent towards the arrears, The Tribunal has noted the arrears balance is increasing slightly due to a small shortfall of unpaid rent after current monthly housing payments totalling £691.70 are received into the rent account and the ongoing monthly rent is applied.

(e) The Respondent has failed to engage meaningfully with the Applicant, and more recently not at all, in order to address their arrears.

(f) The Tribunal noted: (i) the Respondents are believed to be in their late 30s/early 40s; (ii) the second named respondent Erika Skanaite has a daughter, believed to be in her late teens, who may still reside in the Property; (iii) the Respondents are not believed to have any health issues or vulnerabilities; and (iv) the Applicant believes the second named respondent Raimondas Jurcenko may be employed (previously known to have worked as a labourer and in a petrol station) but does not believe the first named respondent Erika Skanaite is employed (albeit she had previously operated a part-time business from the Property).

(g) The Tribunal is satisfied the Respondent has made inquiries about alternative accommodation with the local authority and had obtained advice from their homelessness department.

(h) The Tribunal noted the Applicant is 60 years old and has one other rental property; she relies upon the rent from both properties for her income and has expenditure to meet regarding the Property; the breakdown in the landlord/tenant relationship has caused her emotional stress; and the non-payment of rent for the Property has impacted her life choices.

15. The Tribunal exercised the power within Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a decision should be made at the CMD without a hearing.

The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and that ground 12 has been established. For the reasons outlined in paragraph 14, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

The Tribunal determines that an eviction order should be granted against the Respondent.

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.

Elaine Paton

Elaine Paton, Legal Member/Chair **04 November 2026**