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/26/2200

Re: Property at Flat 4, 9 Great King Street, New Town, Edinburgh, EH3 6QW ("the Property")

Parties:

Ailsa Prendergast, 28 Clyde Road, Holgate, Australia, 2250, Australia ("the Applicant")

Sam Paulo, Flat 4, 9 Great King Street, New Town, Edinburgh, EH3 6QW ("the Respondent")

Tribunal Members:

Shirley Evans (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 order against the Respondent for possession of the Property at Flat 4, 9 Great King Street, New Town, Edinburgh, EH3 6QW under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicant or others in her name may enter thereon and peaceably possess and enjoy the same.

Background

1. By application dated 14 May 2026, the Applicant's solicitor applied to the First- tier Tribunal for Scotland (Housing and Property Chamber) ("the

Tribunal") for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Regulations") based on the Respondent's rent arrears.

2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties dated 13 March 2022, a letter to the Respondent with a rent statement dated 11 March 2026, a Notice to Leave with email dated 5 March 2026, a rent statement and an email dated 14 May 2026 addressed to the City of Edinburgh Council with a Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003.

3. On 4 June 2026, the Tribunal accepted the application under Rule 9 of the Regulations.

4. On 27 August 2026 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 17 September 2026. The Tribunal advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 28 October 2026. This paperwork was served on the Respondent by Dale G Barrett, Sheriff Officer, Edinburgh on 28 August 2026 and the Execution of Service was received by the Tribunal administration.

5. The Respondent did not lodge any written submissions by 17 September 2026.

6. On 27 October 2026 the Applicant's solicitor lodged an up-to-date rent statement showing arrears of £15 550.

Case Management Discussion

7. The Tribunal proceeded with a CMD on 28 October 2026 by way of teleconference. Mr Garrioch from Gilson Gray solicitors appeared for the Applicant. There was no appearance by or on behalf of the Respondent despite the CMD starting 5 minutes late to allow him plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.

8. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 13 March 2022, the letter to the Respondent with a rent statement dated 11 March 2026, the Notice to Leave with email dated 5 March 2026, the up-to-date rent statement and the email dated 14 May 2026 addressed to the City of Edinburgh Council with a Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003. The Tribunal considered these documents.

9. Mr Garrioch submitted that the Applicant was seeking eviction based on the Respondent's rent arrears. He referred the Tribunal to the Notice to Leave and submitted that when that was served the Respondent had been in arrears of rent for three months. The Respondent did not engage despite that Notice to Leave and their attempts by way of letters to get him to pay the arrears in terms of the pre action requirements. He submitted arrears had increased now to £15 550 and confirmed the last payment to account was made on 11 December 2025. He submitted that there was a ground of eviction under Ground 12 of Schedule 3 of the 2016 Act.

10. In relation to reasonableness, he submitted that there was no reason to believe the arrears had accrued due to a delay or failure in the payment of a relevant benefit. The arrears were substantial. He explained the Respondent used to work for Gilson Gray Lettings and appeared to have been working in Dubai at some stage. After the application to the Tribunal had been made the letting agent heard from the Respondent who indicated he would leave the Property. However having checked with the lettings department the previous day there was nothing to suggest the Respondent had left the Property. On being questioned by the Tribunal Mr Garrioch advised he was not aware that the Respondent had any health issues and was able to work. He was not aware of whether the Respondent was actually in employment at the moment. He also advised that the Respondent lived in the Property on his own as he understood that the Respondent's wife and children lived in the former matrimonial home.

Reasons for Decision

11. The Tribunal considered the issues set out in the application together with the documents lodged in support. The Tribunal also considered the following legislation in its determination -
    - Private Housing (Tenancies) (Scotland) Act 2016
    - The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

12. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 12(rent arrears).

13. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.

14. In terms of Section 54 of the 2016 Act a landlord may not make an application to the Tribunal for an eviction order against a tenant until the expiry of the relevant period in relation to that Notice. The relevant period begins on the day the tenant receives the Notice which in the case of Ground 12 of Schedule 3 is 28 days.

15. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states that it proceeds on Ground 12 of schedule 3 of the 2016 Act and states the amount of arrears at Part 2 of the Notice. The Notice to Leave specifies the date the Applicant as landlord expects to become entitled to make an application for an eviction order namely 5 April 2026. In terms of Section 62(4) of the 2016 Act, the Notice to Leave must specify the day falling after the day on which the notice period defined in section 54(2) will expire. In this case the Notice to Leave was sent to the Respondent by email on 5 March 2026 and was deemed to be received by him on 7 March 2026. In the circumstances the Tribunal is satisfied the Respondent has been given sufficient notice of 28 days. Accordingly, the Notice to Leave complies with Section 62.

16. The Tribunal was satisfied that the arrears had increased to £15 550 with no rent at all being paid since December 2025. The Tribunal found that the Applicant had established a case under Ground 12. However, Ground 12 is discretionary ground of eviction. As well as being satisfied the facts have been established to support the ground, the Tribunal has to be satisfied that it is reasonable to evict.

17. The Tribunal noted the pre action requirement letter lodged with the application. The Tribunal noted that the arrears were substantial and that no rent had been paid in 10 months. The Tribunal gave considerable weight to Mr Garrioch's submissions on the arrears. The Tribunal also gave weight to the fact the Respondent had not engaged with either the letting agent or the Tribunal. The Tribunal considered it was hard to see how the arrears would ever be cleared by the Respondent. The Tribunal also considered that the Respondent lived in the Property on his own and that no other party would be impacted by an eviction. On balance therefore, reasonableness favoured the Applicant.

18. The Tribunal noted that notice under Section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to the City of Edinburgh Council had been served. In the circumstances the Tribunal considered that in terms of Ground 12 of Schedule 3 the Respondent has been in rent arrears for over three consecutive months and that it is reasonable to grant an eviction order in terms of Section 51 of the 2016 Act.

Decision

19. The Tribunal granted an Order of eviction. The decision of the Tribunal was 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.

Shirley Evans

28 October 2026

Legal Member **Date**