



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/25/0959

Re: Property at Flat 2/1 465 Strathmartine Road, Dundee, DD3 9DQ (“the Property”)

Parties:

Hillcrest Enterprises Limited, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)

Mr Nikolay Evtimov, Flat 2/1, 465 Strathmartine Road, Dundee, DD3 9DQ (“the Respondent”)

Tribunal Members:

Yvonne McKenna (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Eviction be granted.

Background

1. On 5 March 2025 the Applicant’s representative lodged an application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property using Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - Copy Private Residential Tenancy Agreement (‘PRT’) showing a commencement date of 9 July 2019 and an initial rent of £321.56 per month;
 - Copy Notice to Leave dated 10 December 2024;
 - Copy Sheriff Officer execution of Notice to Leave dated 11 December 2024
 - Section 11 Notice;

- Proof of service of section 11 Notice to Local Authority;
 - Rent Statement.
 - Copy of Letters sent to the Respondent re Pre-Action Requirements in terms of The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
3. The application was served on the Respondent by Sheriff Officer on 12 June 2025.
 4. The application for Eviction was conjoined with an application for Payment under Chamber reference FTS/HPC/CV/25/0960.

The Case Management Discussion

5. The Application called for a Case Management Discussion (“CMD”) by conference call on 1 August 2025. The Applicant was represented by Ms Callaghan, solicitor TC Young. The Respondent was absent.
6. Ms Callaghan said that there had been no recent successful contact by the Applicant with the Respondent. They did attempt contact with the Respondent both by e-mail and by letters, dated 9 and 19 June 2025, but no response had been received. On 23 July the Applicant had e-mailed the Respondent regarding the assigned CMD and had provided an updated rent statement, and further links for assistance.
7. Ms Callaghan invited the tribunal to proceed to grant the Order for Eviction. She set out the legal procedures adopted by the Applicant prior to raising the application with the Tribunal.
8. A Notice to Leave was served detailing eviction was sought under Ground 12.
9. She referred the tribunal to two rent increase notices which had increased the respondent’s rent to £344.45 on 1 August 2023 and £371.14 on 1 August 2024.
10. Ms Callaghan said that the rent arrears outstanding at the time that the Notice to Leave was served amounted to £3804.35. At the date the application was lodged they amounted to £4917.77, and as at today’s date they amounted to £4833.38.
11. The Respondent is in arrears of over a month’s rent and has been in arrears for three months or more. She submitted that Ground 12 is accordingly established.
12. She also referred the tribunal to the pre-action requirement letters sent to the Respondent and which are submitted as part of the Application.
13. In relation to the issue of reasonableness, Ms Callaghan said that in terms of the PRT, that the Applicant is entitled to receive regular rent payments for the Property. Arrears have accrued since November 2023. The Respondent has failed to pay rent regularly and continues to accrue arrears. The last full rental payment was in September 2024. The sum of £600 was received in April 2025

which was an amount of backdated Universal Credit. However, the Respondent has continued not to pay the full rental due.

14. The Applicant is an enterprise company offering properties in the mid-market at a discounted rent. The company is a subsidiary of Hillcrest Homes (Scotland) Ltd which holds the title for the Property.
15. This tenancy has the highest tenancy arrears, and represents 12.71% of the total rent arrears group for this area. Non payment of rent has a significant impact on the company's ability to invest its income for distribution to local community organisations, and for the company's own sustainability. The company also provides services to their tenants through their tenancy sustainment team. The Applicant is unable to rely on bad debt. This could impact on other rents increasing and being less affordable to those tenants who would be unable to source alternative housing. The Applicant has also encouraged the Respondent to work with the in-house financial advisers to no avail.
16. The Respondent was receiving advice from the Citizens Advice Bureau, and Universal Credit has been in place since March 2025. The Respondent does not receive the full rental from benefits, and is expected to meet the shortfall from his other income. Amounts that he has paid have fluctuated. He has not made consistent payments to cover the shortfall. Based on the tenancy history, further arrears will accrue.
17. The Respondent is 38 years of age and is the sole occupant of the Property. The Property is a one bedroomed flat. He is in employment as an agency agricultural worker.
18. The Respondent has been served with the paperwork from the tribunal. He has not lodged any written response, and has not participated in the CMD. The applicant is entitled to an order.

Findings in Fact

19. The Tribunal made the following findings in fact:
 - (i) The parties entered into a PRT which commenced on 9 July 2019;
 - (ii) In terms of Clause 8 of the PRT the Respondent was due to pay rent to the Applicant in the sum of £321.56 per calendar month payable in advance;
 - (iii) The monthly rent payments were increased by rent increase notices dated 1 August 2023 to £344.45; and dated 1 August 2024 to £371.14.
 - (iv) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 12 of Schedule 3 to the 2016 Act, and which was served on 11 December 2024;
 - (v) On 11 December 2024 the Respondent was in rent arrears over three consecutive months;
 - (vi) The Respondent has been in continuous arrears of rent since November 2023;
 - (vii) The Respondent is in arrears of rent amounting to £4833.38 at the date of the CMD

- (viii) No rent arrears have accrued as a consequence of delay or failure of payment of a relevant benefit.
- (ix) The Applicant has complied with the Pre-Action Protocol
- (x) The Respondent lives alone in the Property and does not oppose the Application

Reasons for Decision

20. Section 51 of the 2016 Act states as follows:

- 51 (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 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.*

21. Ground 12 of Schedule 3 to the 2016 Act states as follows:

- (1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*
- (2) (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.*
- (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.

22. The tribunal is satisfied in terms of the established Findings in Fact that Ground 12 is satisfied.

23. The tribunal then has to decide if it is reasonable to grant the eviction order. The Tribunal has exercised its discretion in applying the facts, to decide if it is reasonable to grant the order. The tribunal considers that the amount of the arrears, as well as the period of time that the arrears have continued to accrue, together with the fact that the Respondent did not oppose the Application makes it reasonable to grant the order.

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.

Y. McKenna

1 August 2025

Legal Member/Chair

Date