



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/4646

Re: Property at 42 Warwick Close, Leuchars, Fife, KY16 0HP (“the Property”)

Parties:

Ms Lynda Wilson, Edencroft, Edenside, Guardbridge, KY16 9SQ (“the Applicant”)

Ms Deborah Sedgley, 42 Warwick Close, Leuchars, Fife, KY16 0HP (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property but that enforcement of the order should be suspended for a period of three months from the date of the decision.

1. By application dated 4 October 2024 the Applicant’s representatives, Rollos Law LLP, Solicitors, St Andrews, applied to the Tribunal for an order for the eviction of the Respondent from the property as the Respondent was in arrears of rent. The Applicant’s representatives submitted a copy tenancy agreement, Copy Notice to Leave with proof of service, copy rent increase notice and delivery receipt together with rent statements, pre-action emails and a Section 11 Notice in support of the application.
2. Following further correspondence between the Applicant’s representatives and the Tribunal administration, by Notice of Acceptance dated 16 December 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 25 March 2025.
4. By email dated 28 May 2025 the Applicant's representatives submitted further written representations to the Tribunal.
5. By email dated 3 June 2025 the Respondent's representative Ms Magdalena Johnston of Frontline Fife, Kirkcaldy, submitted written representations on behalf of the Respondent.
6. By email dated 6 June 2025 the Applicant's representatives submitted further written representations in response.
7. A CMD was held by teleconference on 12 June 2025. The Applicant did not attend but was represented by Ms Dorka Ilonka from the Applicant's representatives. The Respondent did not attend but was represented by Ms Magdalena Johnston. The CMD was adjourned to a hearing to allow Ms Johnston to take full instruction from the Respondent as regards the validity of the Rent Increase Notice and the amount of Rent due and the options open to the Respondent for payment.
8. By emails dated 1 and 2 October 2025 the Applicant's representatives submitted further written representations to the Tribunal.
9. By email dated 6 October 2025 the Respondent's representatives submitted further written representations to the Tribunal.
10. By emails dated 8 and 14 October 2025 the Applicant's representative submitted further written representations to the Tribunal.

The Hearing

11. A hearing was held by teleconference on 15 October 2025. The Applicant attended in person and was represented by Ms Ilonka. The Respondent did not attend but was represented by Ms Johnston.
12. Ms Johnston explained that the Respondent was unable to attend due to health reasons and the effects of medication. In response to a query from the Tribunal Ms Johnston confirmed that the Respondent now accepted that the Rent Increase Notice dated 18 April 2024 had been properly served on the Respondent and was no longer being challenged.
13. For the Applicant Ms Ilonka advised the Tribunal that the amount of rent currently due by the Respondent as shown on the rent statement submitted on 14 October 2025 amounted to £1666.00. Ms Johnston this amount was accepted by the Respondent as being due to the Applicant.
14. Ms Johnston went on to refer the Tribunal to her written representations dated 6 October 2025 that the Respondent remain in the property for up to twelve

months or possibly a shorter period during which time Fife Private Rental Solutions would clear the rent arrears and assistance would be provided to the Respondent to ensure that the Respondent's Universal Credit Housing element was paid direct to the Applicant and that assistance was provided to the Respondent to ensure that any shortfall between the amount paid by Universal Credit and the amount to be paid by the Respondent would be paid from the Respondent's bank account each month by direct debit. Ms Johnston explained that once the rent arrears had been cleared the Respondent would be able to apply for Local Authority/ Social Housing and would receive priority because of her health and mobility issues and would therefore be likely to be rehoused earlier than the twelve months suggested.

15. For the Applicant Ms Ilonka explained that the Applicant did not feel able to accept the proposed solution as the proposal to Fife Private Rental Solutions was only in draft and there was no proof it would be accepted. Ms Johnston also submitted that there was no guarantee that the Respondent would be rehoused within the twelve month period and the Respondent was still expected to pay the shortfall between her Universal Credit payments and the rent and the Applicant could not be certain that would happen. Ms Ilonka also noted that no medical evidence had been submitted on behalf of the Respondent but if the Respondent did have mobility issues as suggested then if an order for eviction was granted, she would receive some priority for obtaining local authority housing.
16. In response Ms Johnston said that if an eviction order was granted and the Respondent had rent arrears then under a homeless application the Respondent would be treated as having made herself intentionally homeless and would not be rehoused by the Local Authority.
17. In response to a query from the Tribunal suggesting that this issue was not as straightforward as Ms Johnston had suggested and that each application had to be considered on its own merits, Ms Johnston indicated that if a tenant maintained a payment plan for a period of three months that would be taken into account but that Dundee City Council had refused to consider the Respondent's homeless application and Ms Johnston was uncertain what Fife Council's position would be. Ms Johnston reiterated her position that the best solution would be to make use of the Rent Resolution Fund to clear the arrears and allow the Respondent to apply for Local Authority Housing.
18. As an alternative Ms Ilonka said that she had discussed matters further with the Applicant and if the Respondent was prepared to consent to an order for eviction to be granted but with enforcement suspended for a period of three months during which period the Respondent agreed to a payment plan to reduce the rent arrears by £500.00 and agree that her deposit be paid to the Applicant at the end of the tenancy then that would clear the arrears and should mean that the Respondent's homeless application could proceed.
19. For the Respondent, Ms Johnston agreed that this provided a practical solution and that it would be reasonable for the Respondent to reduce the arrears by

£500.00 over the next three months and on the Respondent's behalf consented to an order for eviction being granted but with enforcement being suspended for a period of three months.

20. In light of the agreement reached between the parties the Tribunal noted that it could rely on the parties' written submissions as regards the parties' circumstances

Findings in Fact

21. The Respondent commenced a Private Residential Tenancy of the property on 1 March 2019 at a rent of £550.00 per month.
22. The Respondent was served with a Notice to Leave dated 13 June 2024.
23. The Respondent was sent pre-action requirement emails and letters dated 24 May, 3 and 21 June and 16 August 2024
24. The rent was increased with effect from 1 August 2024 to £615.00 per month.
25. Fife Council was given notice of the proceedings by way of a Section 11 Notice by email on 9 September 2024.
26. At the date of the CMD the Respondent owed rent amounting to £1666.00.
27. The Applicant is currently unemployed.
28. The current proceedings have caused the Applicant stress.
29. The Respondent suffers from mental health and mobility issues.
30. The property is not suitable for her needs.
31. The Respondent has agreed to enter into a payment plan to reduce the amount of rent due by £500.00 over the three months from October 2025 to January 2026 and clear the balance of the debt from her deposit by 15 January 2026.
32. The Respondent's representative has on behalf of the Respondent consented to an order for eviction being granted subject to enforcement of the order being suspended for a period of three months from the date of the decision.

Reasons for Decision

33. The Tribunal was satisfied from the documents produced and the oral submissions of the parties' representatives that the Respondent commenced a Private Residential tenancy of the property on 1 March 2019 at a rent of £550.00 per month and that the rent was subsequently increased on 1 August 2024 to £615.00 per month. The Tribunal was also satisfied that the Respondent had fallen into arrears of rent and had been served with a valid Notice to Leave by Recorded Delivery post on 14 June 2024 and that appropriate pre-action requirement letters were sent to the Respondent as was a Section 11 Notice given to Fife Council. The Tribunal was therefore satisfied that procedurally the requirements for an order for eviction under ground 12 of schedule 3 of the 2016 Act had been met subject to the Tribunal being satisfied that it was reasonable for an order to be granted.
34. In reaching its decision the Tribunal considered the circumstances of both parties including the effect the non-payment of rent was having on the Applicant and also the difficulties experienced by the Respondent and the submissions made on behalf of the Respondent as to whether it was appropriate to refuse the application and to allow the Respondent to remain in the property in order to make an application to Fife Private Rental Solutions although ultimately the Tribunal was not required to make a decision in this regard due to the agreement reached between the parties. It was clear to the Tribunal that the property was not suitable for the Respondent given her health and mobility issues and were it not for the current rent arrears which although not particularly high would undoubtedly mean that the Respondent would receive considerable priority for rehousing by the Local Authority if made homeless. By entering into the proposed repayment plan and suspending enforcement of an order for eviction for a period of three months the Tribunal understands that this should allow the Respondent to proceed with an application to the Local Authority for more suitable accommodation.

Decision

35. The tribunal finds the Applicant entitled to an order for the eviction of the Respondent from the property but that enforcement of the order should be suspended for a period of three months from the date of the decision.

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.

G Harding

**Graham Harding
Legal Member/Chair**

**15 October 2025
Date**