



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/25/1697

Property at 100 Oldwood Place, Livingston, EH54 6US (“the Property”)

Parties:

Dawnside Holdings Ltd, Geddes House, Kirkton Road North, Livingston, EH54 6GU (“the Applicant”)

Mr Zsolt Hollik, 100 Oldwood Place, Livingston, EH54 6US (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Helen Barclay (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, Notice to leave, rent statement and section 11 notice were lodged with the application. The Applicant also requested a Hungarian interpreter for the Respondent, as the Respondent had made a similar request in connection with a previous tribunal hearing.
2. A copy of the application was served on the Respondent by Sheriff Officer. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 10 November 2025 at 2pm and that they were required to participate.

3. The CMD took place on 10 November 2025. The Applicant was represented by Mr Donaldson. The Respondent did not participate. An interpreter was also present but allowed to leave the conference call at 2.20 as the Respondent had not joined the call.

Summary of Discussion at CMD

4. Mr Donaldson told the Tribunal that the Respondent is still living at the property. He was contacted recently about access for the gas safety inspection and asked for this to be delayed. Mr Donaldson said that there have been no payments to the rent account since January 2024 and the arrears in terms of the current tenancy agreement are now £19550. The Respondent also owes over £5000 in rent arrears incurred during a previous tenancy for the same property. Mr Donaldson advised the Tribunal that the Applicant has corresponded with the Respondent in relation to the arrears and a pre action protocol email was sent with the Notice to leave. However, he never responds. In response to questions from the Tribunal Mr Donaldson said that the Applicant owns about 44 properties. The Respondent initially lived at the property with a partner. The partner was the tenant and when she left, he took over the tenancy in 2019. There were issues with the rent from the start. The Respondent lives at the property alone and was previously in employment as a delivery driver but his current employment status is unknown. He said on a few occasions that he was applying for Universal Credit but did not resume payments to the rent account. Mr Donaldson said that although an interpreter was previously requested, he has spoken to the Respondent on a number of occasions over the years and is satisfied that he has a good command of English. The Applicant does not know if he has contacted the Local Authority about his housing situation.

Findings in Fact

5. The Applicant is the owner and landlord of the property.
6. The Respondent is the tenant of the property in terms of a private residential tenancy agreement which commenced on 1 October 2023.
7. The Respondent is due to pay rent at the rate of £880 per month.
8. The Respondent has been in arrears of rent since January 2024, and no payments have been made by the Respondent since that date.
9. The Respondent currently owe £19,550 in unpaid rent.
10. The Applicant served a Notice to leave on the Respondent on 18 March 2025
11. The Applicant issued an email in compliance with the rent arrears pre action protocol with the Notice to leave.

12. The Respondent has failed to engage with the Applicant in relation to the arrears.
13. The Respondent resides at the property alone.

Reasons for Decision

14. The application was submitted with a Notice to Leave dated 18 March 2025 together with a copy email to the Respondent which establishes that the Notice was sent to the Respondent on that date. The Notices states that an application to the Tribunal is to be made on ground 12, rent arrears over three consecutive months. The application to the Tribunal was made after expiry of the notice period. 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.
15. 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.”
16. 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.”
17. 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.
18. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Respondent currently owes £19,950 in unpaid rent and that he has been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Part 1 of Ground 12 is therefore established.

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

- (a) The Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant submitted a copy of an email sent to the Respondent in compliance with the protocol and the Tribunal was advised that they followed this up with further emails regarding the arrears.
- (b) There is no information or evidence to suggest that the arrears are attributable to a delay or failure in the payment of a relevant benefit.
- (c) The Respondent did not participate in the CMD or notify the Tribunal whether the application is opposed.
- (d) The Respondent resides at the property alone and there is no evidence to suggest that an eviction order will have any impact on family members or dependants
- (e) The arrears are substantial and are increasing. No payments have been made for almost two years.

20. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act that ground 12 has been established. For the reasons outlined in paragraph 19, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

21. 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.

Josephine Bonnar

Legal Member:

10 November 2025

