



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17(4) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the Rules

Chamber Ref: FTS/HPC/EV/24/4067

Re: Property at 10a Barnes Avenue, Dundee, DD4 9AF (“the Property”)

Parties:

Mr Paul Goodman and Mrs Ashley Goodman, Castlecroft Business Centre, Dundee, DD4 8XD (“the Applicants”) per their representatives Rent Locally Tayside and Fife, Unit 2, Gemini Crescent, Lindsay Technology Park, Dundee DD2 1SW (“the Applicants’ Representatives”)

Miss Melanie Robertson, 10a Barnes Avenue, Dundee, DD4 9AF (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Gordon Laurie (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory ground being established and the

statutory procedure having been carried out, it is reasonable to grant the Order sought and so the Tribunal granted the Order.

Background

1. By application received between 2 September 2024 and 2 October 2024 (“the Application”), the Applicant’s Representatives applied to the Tribunal for an Order for eviction and possession of the Property based on Ground 12 of Schedule 3 to the 2016 Act, that the tenant is in three months’ consecutive rent arrears
2. The Application comprised the following:
 - i) copy private residential tenancy agreement between the Parties showing an initial monthly rent of £560.00 and an entry date of 23 February 2018;
 - ii) copy Notice to Leave in terms of Ground 12 of Schedule 3 to the Act dated 31 July 2024 with proof of service;
 - iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Dundee City Council being the relevant local authority;
 - iv) copy rent statement showing arrears of £1,392.45 due and owing at September 2024 and a pattern of underpayment of rent since the entry date;
 - v) rent increase notices showing the current rent to be £792.83;
 - vi) pre-action requirement letters sent to the Respondent.
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the “CMD”) was fixed for 25 April 2025. The CMD was postponed at the request of the Applicants to allow the Respondent to comply with a payment plan. A further CMD fixed for 14 August 2025 was postponed at the request of the Applicants. A further CMD was fixed for 8 December 2025 at 10.00 by telephone conference and intimated to the Parties.
4. Prior to the CMD, the Applicants’ Representatives lodged an updated rent statement which the tribunal administration intimated by post to the Respondent.

CMD

5. The CMD took place on 8 December 2025 at 10.00 by telephone. The Applicants were not present and were represented by Mrs. Wheelan of the Applicants' Representatives. The Respondent was not present and was not represented. She did not submit written representations. The Tribunal was satisfied that the Respondent had been made aware of the CMD by letters dated 20 October 2025 and 5 December 2025.
6. The Tribunal explained that it required to be satisfied that the correct statutory process had been carried out, that the Ground for the Application was satisfied and that it was reasonable to grant the Order. The Tribunal asked Mrs. Wheelan to provide information on the tenancy and the accrual of arrears.
7. Mrs. Wheelan confirmed that the Applicants sought an eviction Order. She explained that the tenancy began in 2018 at which time the Respondent, Ms. Roberston, was not in employment and was in receipt of local housing allowance. Mrs. Wheelan explained that Ms. Robertson had often underpaid the rent, although the major part of the rent has been paid. She explained that Ms. Roberston has been in employment since the spring of this year. A payment plan had been adhered to until September 2025 since when only £560.00 per month has been received. Mrs. Wheelan referred the Tribunal to the numerous and regular contacts made by the Applicants' Representatives without response from Ms. Robertson.
8. With regard to Ms. Robertson's personal circumstances, Mrs. Wheelan stated that Ms. Roberston is a single person with three primary school age children. She is employed in the care sector. From contact made by a housing officer to the Applicants' Representatives requesting a tenancy reference, Mrs. Wheelan was aware that Ms. Robertson has been seeking alternative accommodation. Mrs. Wheelan stated that she had personally visited Ms. Robertson at the Property in October 2025 and found it to be in immaculate

condition, but no conversation took place regarding Ms. Roberston looking for another property. Mrs. Wheelan confirmed that the Property is a three bedroom flat and that the current rent is slightly less than the current local housing allowance for that type of property.

9. With regard to the Applicants' personal circumstances, Mrs. Wheelan stated that the Applicants have a portfolio of 11 properties of which the Property is one. There is a mortgage on the Property and, with other running costs, and based on the Respondent's recent payments of £560.00, the Applicants' profit on the Property is £73.18 per month.

10. Mrs. Wheelan confirmed that, if granted, the Applicants would not oppose an Order being stayed for an extended period to allow the Respondent and her family to be rehoused.

Findings in Fact

11. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a private residential tenancy of the Property between the Parties commencing on 23 February 2018;
 - ii) The current monthly rent is £792.83;
 - iii) There are rent arrears of £2,464.07 and the current month of £792.83 is due and owing;
 - iv) Rent has been in arrears for more than three consecutive months;
 - v) The correct statutory procedure has been carried out;
 - vi) The Respondent is a single person with three primary school age children and is in employment;
 - vii) The Applicants rely on regular payment of the full rent to meet to their financial commitments secured on the Property and to realise a viable profit.

Issue for the Tribunal

12. The issue for the Tribunal was whether or not it should grant an Order for eviction in terms of Ground 12 of Schedule 3 to the Act as set out in the Application. Ground 12 states “(1)It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.(2)The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if (a)the tenant has accrued rent arrears under the tenancy in respect of one or more periods, (b)the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months’ rent under the tenancy when notice to leave is given to the tenant on this ground in accordance with section 52(3), and (c)the Tribunal is satisfied that it is reasonable to issue an eviction order. (3)In deciding under sub-paragraph (2) whether it is reasonable to issue an eviction order, the Tribunal is to consider (a)whether the tenant being in arrears of rent over the period or periods in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, (b)the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers under paragraph 12(4)(b) (and continued in force by virtue of section 49 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022). (4)For the purpose of this paragraph (a)references to a relevant benefit are to (i)a rent allowance or rent rebate under the Housing Benefit Regulations 2006 (ii)a payment on account awarded under regulation 93 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.”

Decision and Reasons for Decision

13. The Tribunal had regard to all the information before it and to its Findings in Fact.

14. The statutory ground and procedure being established, and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order.
15. The Tribunal, having no evidence in respect of state benefits, was satisfied the Respondent being in arrears of rent is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
16. The Tribunal noted that the Applicant had followed the statutory procedures and had followed the Government Guidance on pre-action protocols for notices issued after 1st October 2022.
17. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “*may do anything at a case management discussionincluding making a decision*”. The Tribunal took the view that it had sufficient information to make a decision and so proceeded to determine the Application.
18. The Tribunal then had regard to the circumstances of the Parties.
19. The Tribunal must establish, consider and properly weigh the “whole of the circumstances in which the application is made” (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession.
20. The Tribunal then looked to balance the rights and interests of both parties.
21. The Tribunal accepted that the Applicants rely on the rental income in order to meet the running costs of the Property. The Tribunal had regard to the fact that the Respondent, although having made regular payments, has been in rent arrears throughout the tenancy and, in recent months, has not maintained a payment plan to make payment of the monthly rent and reduce the arrears. The Tribunal took the view that the level of rent arrears and pattern of non-payment is not tenable for either Party.

22. With regard to alternative accommodation, the Tribunal had regard to the fact that, if evicted and made homeless, the Respondent and her family would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance on homelessness.

23. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction order.

24. The Tribunal considered that, as the Respondent has particular housing needs in respect of her children and as the usual thirty-day period for an Order to come into effect is close to the festive period, in the circumstances, it is appropriate to stay the effective date of the Order to 16 February 2026.

25. This decision is 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.

K Moore

Legal Member/Chair

8 December 2025

Date