



**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/25/1498**

**Re: Property at 1F1 107 BROUGHTON ROAD, EDINBURGH, EH7 4EG (“the Property”)**

**Parties:**

**Castle Rock Edinvar, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)**

**Miss Sharon Macleod, 1F1 107 BBROUGHTON ROAD, EDINBURGH, EH7 4EG (“the Respondent”)**

**Tribunal Members: Ruth O’Hare, Legal Member, and Ahsan Khan, Ordinary Member**

**Decision (in absence of the Respondent)**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of ground 12 of schedule 3 of the 2016 Act are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

In terms of section 51(4) of the Act the order will terminate the private residential tenancy on 10 January 2026.

**Background**

- 1** This is an application for an eviction order under rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 51 of the 2016 Act. The Applicant relied upon ground 12 as the ground for eviction, stating that the Respondent was in rent arrears. The application was conjoined with an application for a payment order under reference FTS/HPC/CV/25/1499 as the applications related to the same tenancy and same parties.
- 2** The application was referred to a case management discussion (“CMD”) to take place by teleconference on 8 December 2025. The Tribunal gave notice of the

CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondents by sheriff officers on 21 October 2025.

- 3 Both parties were invited to make written representations in advance of the CMD. On 4 December 2025 the Tribunal received an updated rent statement from the Applicant's representative, Patten and Prentice Solicitors. No written representations were received from the Respondent.

### **The CMD**

- 4 The CMD took place by teleconference on 8 December 2025. Mr Kenneth Caldwell of Patten and Prentice Solicitors represented the Applicant. The Respondent did not join the call. Mr Caldwell explained that communication with the Respondent had been poor. The Applicant had attempted to get in touch with her by telephone, letter, and by visiting the property. The Respondent had not been in touch and had not given any indication of her intentions regarding the CMD. The Tribunal noted that the Respondent had not made any written representations in response to the application, nor had she provided any explanation to the Tribunal as to the reason for her absence. The Tribunal was satisfied that she had been given proper notice of the CMD under Rule 17(2) of the Rules and of the consequences of her non-attendance. The Tribunal therefore delayed the start time of the CMD for a short period before determining to proceed in the Respondent's absence.

- 5 The Tribunal had the following documents before it:-

- (i) Form E application form;
- (ii) Title sheet confirming the Applicant's ownership of the property;
- (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
- (iv) Private residential tenancy agreement;
- (v) Notice to leave and proof of delivery to the Respondent by email;
- (vi) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 ("section 11 notice") and proof of delivery to Edinburgh City Council;
- (vii) Rent statements; and
- (viii) Copy email from Patten and Prentice Solicitors to the Respondent in accordance with the rent arrears pre-action protocol.

- 6 The Tribunal explained the purpose of the CMD and proceeded to hear submissions from Mr Caldwell on behalf of the Applicant. The following is a summary of the key elements of the submissions.

- 7 The Applicant sought an eviction order. Mr Caldwell outlined the pre-application steps taken by the Applicant in terms of sending a notice to leave to the Respondent and the information required under the rent arrears pre-action protocol. The arrears now stand at £2596.57. The Respondent has not adjusted her rent payments to reflect rent increases since April 2022, resulting in a growing balance of rent arrears. The Respondent continues to pay the sum of £568.70 each month, against a rent of £694.80. There is no indication that the

Respondent is receiving universal credit. The Respondent has not engaged with the Applicant, and as such the Applicant has little information regarding her personal circumstances. A welfare check was carried out by police earlier this year following concerns regarding a stench emanating from the property. The Respondent did not get in touch with the Applicant following this incident. All attempts at communication with the Respondent have failed. Mr Caldwell explained that in his experience it was a very odd situation. He has seen photographs of the property and it appears that it is being used for another purpose. There is no evidence of any children residing there.

- 8 The Tribunal adjourned the CMD to deliberate, at which point Mr Caldwell left the call, before resuming the proceedings and confirming the outcome.

### **Findings in fact**

- 9 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement which commenced on 6 July 2018.
- 10 The Applicant has given the Respondent a notice to leave which includes ground 12 of schedule 3 of the 2016 Act.
- 11 The Applicant has given the local authority a section 11 notice at the time of making this application to the Tribunal.
- 12 The current contractual rent for the property is £694.80 per month.
- 13 The rent account has been in arrears since April 2022.
- 14 There are rent arrears outstanding in the sum of £2,596.57 as at the date of this decision.
- 15 The rent arrears are not known to be a result of any failure or delay in the payment of a relevant benefit.
- 16 The Applicant's representative, Patton and Prentice Solicitors, has contacted the Respondent regarding the rent arrears, has reminded her of her rental obligations, has offered to enter into payment plans, and has directed her to relevant agencies for advice and support.
- 17 There is evidence to suggest that the Respondent is not occupying the property. A welfare check was carried out by Police earlier this year due to concerns regarding a stench emanating from the property.

### **Reasons for decision**

- 18 The Tribunal was satisfied it had sufficient information to make relevant findings in fact based on the oral and written submissions and documentary evidence before it. The Respondent had been clearly advised in the CMD notification that

the Tribunal could proceed to a decision at the CMD. She had provided no explanation for her failure to attend the discussion and had not sought to submit any evidence to the Tribunal to counter the documentary evidence submitted by the Applicant. The Tribunal was therefore satisfied it could reach a decision in the absence of a hearing under rule 18 of the Rules.

**19** Section 52 of the 2016 Act states that “*an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant*”. The Tribunal was satisfied based on the documentary evidence before it that the Applicant has given the Respondent a notice to leave that complies with the requirements of the 2016 Act. The Tribunal was further satisfied that the Applicant has given the local authority a section 11 notice in accordance with the requirements of section 56 of the 2016 Act.

**20** The Tribunal went on to consider the wording of ground 12:-

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

*(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),*

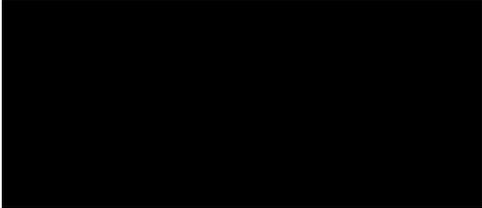
*(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,  
(c) such other matters as the Scottish Ministers consider appropriate.”*

- 21** The Tribunal accepted based on the rent statements produced that the rent account has been in arrears for more than three consecutive months, having first fallen into arrears back in April 2022. The balance of arrears has been gradually increasing ever since. The Tribunal therefore found paragraph 3(a) of ground 12 to be established in this case.
- 22** The Tribunal went on to consider whether it was reasonable to make an eviction order on account of these facts, which requires the Tribunal to identify those factors relevant to reasonableness and determine what weight to apply to them.
- 23** The Tribunal gave significant weight to the Respondent’s breach of her rental obligations. Payment of rent is a fundamental obligation of any tenancy. Whilst the Respondent has been making regular payments to the rent account, the payments do not reflect the rent increases which have been lawfully applied by the Applicant. As a result, the arrears continue to increase monthly. When this application was submitted to the Tribunal, the balance stood at £1671.53. As at the date of this decision, it has increased to £2596.57. There was no evidence to suggest that the arrears are due to any failure, or delay, in the payment of a relevant benefit. The Applicant has also written to the Respondents via their representative with the information required under the rent arrears pre-action protocol, and the Tribunal accepted that they have made repeated attempts to engage with the Respondent to no avail.
- 24** The Tribunal had limited information regarding the Respondent’s circumstances. She has not sought to oppose the application. She was not advancing any defence regarding reasonableness. The Tribunal accepted the submissions from Mr Caldwell which suggested that she may not be occupying the property based on the photographic evidence he has viewed. The Tribunal was also aware that the local authority would have a duty to provide the Respondents with advice and assistance if an eviction order is granted. There were therefore no factors that would weigh against making an eviction order in this case.
- 25** Accordingly, having weighed those factors relevant to reasonableness the Tribunal concluded that paragraph 3(b) of ground 12 was met in this case in that it would be reasonable to make an eviction order.
- 26** 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.**



**Legal Member/Chair**

**9 December 2025**

**Date**