



**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/25/3698**

**Re: Property at 4 Mill Lane, Tayport, Fife, DD6 9EN (“the Property”)**

**Parties:**

**Mrs Ghazala Habib, 1 Nethergray Lane, Dundee, DD2 5GW (“the Applicant”)**

**Mr Gavin Clark, 4 Mill Lane, Tayport, Fife, DD6 9EN (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.**

**Background**

1. The Applicant submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the Property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 18 February 2026 informing both parties that a CMD had been assigned for 9 April 2026 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to

make written representations by 11 March 2026. No representations were received by the Tribunal.

4. On 25 March 2026, the Tribunal received an email from the Applicant's representative, attaching an updated rent statement.

#### **The case management discussion – 9 April 2026**

5. The CMD took place by conference call. The Applicant was represented by Mr David Wilkie. The Respondent did not join the conference call and the discussion proceeded in his absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/25/3695. The Tribunal explained the purpose of the CMD.
6. The Applicant's representative explained that the Respondent lived alone in the Property but he is believed to have left the Property several months ago. The Applicant's representative has spoken to neighbours and others local to the area. Based on the information gathered, the Respondent is believed to have moved to the north of England many months ago and from there to Portugal. It is believed that the energy provider obtained a warrant to enter the Property to disconnect the energy supply because of unpaid bills. The Applicant's representative has tried to contact the Respondent, but has been unsuccessful in doing so. The Applicant's representative issued pre-action protocol letters but there has been no contact from the Respondent. The rent arrears have increased to £7,915 and the Respondent has not made any proposal to pay the arrears or the ongoing rent.

#### **Findings in Fact**

7. The Applicant is the heritable proprietor of the Property at 4 Mill Lane, Tayport, Fife, DD6 9EN.
8. The Respondent is the tenant at the Property.
9. The parties entered into a private residential tenancy which commenced 27 June 2019.
10. The Applicant served Notice to Leave on the Respondent by email on 9 July 2025.
11. The Respondent has been in rent arrears for more than 3 consecutive months.

## **Reason for Decision**

12. The Tribunal was satisfied that it could make relevant findings in fact in order to reach a decision following the CMD, and that to do so would not be contrary to the interests of the parties in this case.
13. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016. The updated rent statement lodged discloses that the Respondent has a long history of rent arrears. The arrears have increased to £7,915 and the last payment made by the Respondent was on 6 May 2025. The Tribunal concluded that the ground of eviction is established.
14. In relation to reasonableness, the Tribunal observed that the Respondent has not engaged with the Applicant's representative or the Tribunal. The Applicant has complied with the pre-action protocol. There is a significant balance of rent arrears now due to the Applicant. The Respondent is failing to meet his primary obligation to pay rent, has not engaged with the Tribunal and has not made any proposal to pay the rent arrears. The information available suggests that the Respondent left the Property some time ago. Taking account of all of these matters, the Tribunal was persuaded that it is reasonable to grant the order for eviction.

## **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.**

**Nicola Irvine**

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**Legal Member/Chair**

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**9 April 2026**  
**Date**