



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/26/0593

Re: Property at 16 Ladyland Road, Maybole, KA19 7DH (“the Property”)

Parties:

Alice Abbott t/a Elvie Properties, 56 Monument Road, Ayr, KA7 2UB (“the Applicant”)

Mr Ross Milligan, 16 Ladyland Road, Maybole, KA19 7DH (“the Respondent”)

Tribunal Members:

Robert MacDonald (Legal Member) and David Fotheringham (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) in absence of the Respondent determined that the provisions of paragraph 12 of Schedule 3 of the 2016 Act are met in this case and determined that it should grant an order for recovery of possession.

Background

1. The Applicant made an application dated 6th February 2026 for an Eviction Order under Section 51 of the 2016 Act and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“The Rules”). The Applicant relied upon Ground 12 of Schedule 3 of the Act as the ground for eviction, namely that the Respondent had been in arrears of rent for three or more consecutive months.
2. The application was accepted by the Tribunal as valid on 27th February 2026. It was referred to a Tribunal for a determination. A Case Management Discussion (CMD) was set down to take place on 3rd August 2026 by

teleconference. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Intimation of the CMD was made on the Respondent by Sheriff Officers on 1st July 2026 by letterbox service.

Case Management Discussion

3. The CMD took place on 3rd August 2026 at 2pm. Ms Wiseman from Donald Ross Residential represented the Applicant. There was no appearance on or on behalf of the Respondent.
4. The Tribunal had documentation before it including: -
 - a. Application form E;
 - b. A copy of the Private Residential Tenancy Agreement between the parties dated 4th January 2019;
 - c. A copy of a Notice to Leave and proof of delivery of the said notice on the Respondent by Sheriff Officer on 5th December 2025;
 - d. A rent statement ending February 2026;
 - e. Copies of protocol pre action correspondence between the Applicant's representative and the Respondent.
5. The Tribunal was satisfied that notice of the CMD had been served on the Respondent. Commencement of the CMD was delayed for a few minutes to give the Respondent an opportunity to join but he did not do so. The Tribunal determined that in all the circumstances it was fair and appropriate to continue with the CMD in the absence of Respondent.
6. The Tribunal heard submissions from Ms Wiseman on behalf of the Applicant.
7. Ms Wiseman advised the Tribunal that the rent had not been paid by the Respondent since May 2025. The rent account produced on behalf of the Applicant showed that as at 1st February 2026 there was a rent arrear of £2700. In response to a query from the Tribunal, Ms Wiseman advised that the rent account as at 3rd August 2026 showed an arrear of £4500.
8. Ms Wiseman advised the Tribunal that there had been no contact from the Respondent in response to any pre-action protocol correspondence. She had visited the property around the time the application was made to the Tribunal, and it appeared that the Respondent was not living there at that time. He had previously been known to the Applicant, but they were no longer in contact with each other. He had lived in the property by himself. Ms Wiseman advised the Tribunal that the Applicant knew people in the local area and they had heard locally that the Respondent wasn't living at the property anymore, and in fact had a new tenancy.

9. The Tribunal adjourned the CMD to deliberate outwith the presence of the Applicant's agent. After a brief adjournment, the Tribunal resumed the CMD and confirmed the outcome.
10. The Tribunal were satisfied that there was sufficient information available to them to make a decision in this case.

Findings in Fact and Law

11. The Applicant is the landlord and the Respondent is the tenant of the property in terms of a Private Residential Tenancy Agreement which commenced on 4th October 2019.
12. The Applicant's agent sent a Notice to Leave as defined by Section 62 of the 2016 Act to the Respondent by Sheriff Officer and this was served by Sheriff Officer on 16th December 2026 by way of letterbox service.
13. In terms of the notice relying on ground 12, the Respondent was advised that an application might be submitted to the Tribunal after 15th January 2026.
14. The Applicant has observed the pre action requirements and corresponded with the Respondent in relation to his rent arrears.
15. A notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 was sent on behalf of the Applicant to South Ayrshire Council on 5th February 2026.
16. As at the date the application was submitted to the Tribunal, the Respondent was in arrears of rent of £2700. As at the date of the CMD, the Respondent was in arrears of rent of £4500.
17. The Tribunal considered the Respondent's circumstances insofar as they were known to the Tribunal. The Applicant believed that he was in fact no longer living within the property.
18. The Tribunal considered whether it was reasonable to make an Eviction Order on account of the information available to it which required the Tribunal to identify the factors relevant to issues of reasonableness to determine how much weight should be applied to them. The Tribunal noted that there were very significant rent arrears. The Tribunal attached considerable weight to the fact the Respondent had not opposed the application and that it appeared likely that he was not living in the property.

19. Having regard to the factors relevant to reasonableness, the Tribunal concluded that it was reasonable for an order for eviction to be granted.

20. The Tribunal was satisfied that the provisions of Paragraph 12 of Schedule 3 of the 2016 Act had been met in this case.

21. The decision of the Tribunal was unanimous.

Decision

22. The Tribunal grants an order for possession of the property.

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.

Robert MacDonald

03/08/2026

Legal Member/Chair

Date