Housing and Property Chamber
First-tier Tribunal for Scotland

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/26/1065

Re: Property at 3 Tyne Court, Haddington, East Lothian, EH41 4BL ("the Property")

Parties:

The Newton Trust, 5 The Maltings, Haddington, East Lothian, EH41 4EF ("the Applicant")

Mr Ivelin Angelov, Mrs Evgeniya Zhel Yazkova, 3 Tyne Court, Haddington, East Lothian, EH41 4BL ("the Respondents")

Tribunal Members:

Serena Weir (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the order for possession should be granted such order not to be enforced before 12noon on 15 November 2026.

Background

1. By application dated 06 March 2026, the Applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("**the Act**") and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. Supporting documentation was submitted in respect of the application, including a copy of the Private Residential Tenancy Agreement dated 01 February 2018, statements of account, the latest of which was dated 06 March 2026, a rent increase notice dated 16 September 2025, correspondence to the Respondents in relation to the rental arrears, a copy of the notice to leave dated 04 February 2026 together with evidence of service and a copy of the section 11 notice to the local authority together with evidence of service.
2. On 15 May 2026 the application was accepted by the Tribunal and referred for determination by the Tribunal.
3. A Case Management Discussion ("**CMD**") was set to take place on 15 October 2026 and appropriate intimation of that hearing was given to all parties. The application, supporting papers and details of the CMD were served on the

Respondents by Sheriff Officer on 18 August 2026. In terms of said notification, the Respondents were given an opportunity to lodge written representations. None were lodged prior to the CMD.

The Case Management Discussion

4. The CMD took place on 15 October 2026 at 2pm via telephone conference call. The Tribunal delayed commencement of the CMD for 5 minutes to give the Respondents an opportunity to join late but they did not do so. The Applicant was represented by Mr Nigel Pearman.
5. Following introductions and introductory remarks by the Legal Member, the Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.
6. The Tribunal asked various questions of the Applicant's representative with regard to the application who confirmed that the Applicant was insisting on the application.
7. The Respondents live at the Property with their adult daughter. The daughter has facilitated discussions between the Applicant and her parents by acting in the capacity of a translator.
8. The Respondents and their daughter were all understood to be working. There were no known health issues or vulnerabilities.
9. No explanation was provided by the Respondents about why they had not been paying the rent. The Applicant had sought to engage with the Respondents about repayment of the sums owed for rent. A repayment plan had been arrived at in June 2025 to repay the arrears at the rate of £400 per month in addition to the monthly rent due. This agreement was adhered to for the months of July to September 2025 and then defaulted on by the Respondents.
10. Produced alongside the application was a rental statement. The monthly rent presently due was £850 on the first of each month in advance. The most up to date statement produced to the Tribunal was dated 06 March 2026. Since May 2025, payments have been received by the Applicant directly from Universal Credit. Since the date of the last rent statement on 06 March 2026, regular payments have been made each month until September 2026 towards the rent. The rent owed as at the date of the CMD was £4,263.05.
11. The Applicant has been contacted by East Lothian Council to explain that the Respondents had been in contact with them and they requested a copy of the rent arrears statement.

Findings in Fact

12. The Applicant is the registered owner of the Property.
13. The Applicant and the Respondents, as respectively the landlord and tenants, entered into a tenancy of the Property which commenced on 01 February 2018.
14. The tenancy was a Private Residential Tenancy in terms of the Act.
15. The agreed monthly rental is presently £850 payable in advance on the first of each month.
16. On 04 February 2026 the Applicant served upon the Respondents a notice to leave as required by the Act ("**the Notice**"). Service of the Notice was effected by recorded delivery post as permitted under the Private Residential Tenancy. The Notice informed the Respondents that the Applicant wished to seek recovery of possession of the Property using the provisions of the Act, namely that the Respondents were in arrears of rent over three consecutive months.
17. The Notice was correctly drafted and gave appropriate periods of notice as required by law.

18. The Notice set out one of the grounds contained within schedule 3 of the Act, namely ground 12 (that the Respondents had been in arrears of rent for three or more consecutive months). Arrears at the date of service of the Notice were £5,107.87.
19. Arrears had started to accrue since July 2021.
20. The Respondents subsequently failed to make payment of the rent due in full and on time thereafter.
21. The amount of arrears at the date of the CMD was £4,263.05.
22. Appropriate accounting had been provided with the application and in advance of the CMD to the Tribunal in respect of the outstanding rent due under and in terms of the Private Residential Tenancy.
23. The basis for the order for possession on ground 12 was thus established.

Reasons for Decision

24. The order for possession sought by the Applicant was based on a ground specified in the Act and properly narrated in the Notice served upon the Respondents. The Tribunal was satisfied that the Notice had been served in accordance with the terms of the Act and that the Applicant was entitled to seek recovery of possession based upon this ground.
25. The Tribunal accepted the evidence presented on behalf of the Applicant with regard to the rent arrears. A rent statement was produced which set out the history of the arrears. Since July 2021, the Respondents have failed to pay the full rent as it fell due and arrears have accrued.
26. The Tribunal was satisfied that the Respondents have been in arrears for a period far in excess of three consecutive months. The Tribunal accepted the unchallenged evidence of the Applicant relating to the arrears. The Tribunal accepted that the Applicant had made appropriate attempts to encourage the Respondents to deal with the arrears. The Applicant has complied with the relevant provisions of the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
27. The ground for eviction based on rent arrears was accordingly established.
28. Since 07 April 2020, in terms of changes initially made by the Coronavirus (Scotland) Act 2020 and then by the Coronavirus (Recovery and Reform) (Scotland) Act 2022, an eviction order on ground 12 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
29. The Tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the Tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson*, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in a frequently quoted passage:

    "[I]n considering reasonableness … it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account".

30. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
31. In this case the Tribunal finds that it is reasonable to grant the order. The balance of reasonableness in this case is weighted towards the Applicant in this application for the following reasons.
32. The Respondents are believed to be working. The Respondents have no apparent health problems. The Respondents have been afforded several opportunities by the Applicant to repay the rental arrears and have not done so. The rental arrears have been outstanding since July 2021. The fact that the Respondents had been served with a copy of the application and supporting papers and afforded an opportunity to oppose the application and did not do so was another factor which the Tribunal considered made the granting of the order reasonable in all of the circumstances.

Decision

The Tribunal decided to exercise the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

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.

15/10/26

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Legal Member/Chair	**Date**