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/26/2138

Re: Property at 32 Yeaman Street, Forfar, DD8 2JG ("the Property")

Parties:

Mr Elizabeth Illingsworth, C/O 110 Commercial Street, Dundee, DD2 1AJ ("the Applicant")

Ross Nicoll, 32 Yeaman Street, Forfar, DD8 2JG ("the Respondent")

Tribunal Members:

Melanie Barbour (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined to grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. An application had been received under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ("the 2017 Rules") seeking recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.
2. The application contained: -

a. the tenancy agreement,
b. the notice to leave with evidence of service
c. section 11 Notice with evidence of service
d. rent statement
e. pre-action requirement emails.

3. A case management discussion took place on 11 November 2026. In attendance was the applicant's agent, Rachel Boyle from Direct Lettings Scotland Ltd.
4. Notice of the case management discussion had been made by sheriff officers on 5 October 2026. The respondent did not appear. The tribunal was prepared to proceed in their absence given they had notice of the discussion.

Discussion

5. The applicant's agent advised that the applicants were seeking an order for recovery of possession of the property under ground 12 (three months' rent arrears).
6. She advised that the tenant had not been in contact to discuss the arrears since April 2026. She did not believe there were any benefit issues in relation to the non-payment of rent. The respondent was 35 years of age and understood to be in employment. When he applied for the property, he was a warehouseman forklift operator. The letting agents had contacted Universal Credit to see whether or not a direct debit could be set up, but they were advised that there was either no Universal Credit being paid or the tenant had not given instructions regarding to pay it direct. The letting agents did not believe he was receiving Universal Credit. The tenant resides in the property by himself. He had set up a payment plan with the letting agent on 7 April 2026. He made some payments on top of his rent; he had agreed to pay £200; however, all payments stopped in July. There had been no further payments towards the rent or arrears since that date. The letting agents tried to undertake an inspection of the property in October 2026; however, the tenant had not made access to the property available. The letting agents believe that the tenant still resided within the property.

7. The landlord is retired. The loss of rent impacts her financially. The landlord only has one property which she rents out, this property. The ongoing failure to pay rent has a detrimental impact on the landlord as there are other outgoings for the property she has to pay, including the letting agents' costs and safety inspections.

Findings in Fact

8. The Tribunal found the following facts established: -
9. There existed a private residential tenancy.
10. It had commenced on 8 July 2022.
11. The tenant was Ross Nicoll.
12. The landlord was Elizabeth Illingsworth.
13. The property was 32 Yeaman Street, Forfar, DD8 2JG.
14. The tenancy stated that rent was £385 a calendar month payable in advance.
15. Rent arrears when the notice to leave was served on 7 April 2026 were £3,590.
16. Rent arrears as at 11 November 2026 were £5270.
17. There was submitted a notice to leave dated 2 April 2026, stating that an application would not be made until 6 May 2026. It sought eviction under ground 12 rent arrears. A rent statement had been attached to it. The notice to leave had been emailed to the tenant. There was evidence of service.
18. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service.
19. There was evidence that pre-action protocol requirements had been followed.
20. There was no evidence of failure or delay in any benefit payment to the respondent.
21. The respondent had failed to pay any rent since July 2026. The arrears had been steadily accruing. The failure to pay any rent was causing the landlord financial detriment.

Reasons for Decision

22. Section 51 of the 2016 Act provides the Tribunal with the power to grant an order for eviction for a private residential tenancy if it finds that one of the grounds in Schedule 3 of the Act applies. The ground which the Applicant seeks eviction under is ground 12.
23. The applicant's agent confirmed that they sought an order for eviction based on the fact that the respondent had been in rent arrears for three or more consecutive months.
24. When the notice to leave was served in April 2026 there were at least three months' rent arrears. Rent arrears started to accrue in August 2025. The first part of ground 12 was met.
25. Given the first part of the ground is met, the tribunal is therefore required to proceed to consider if it would be reasonable to grant the order.
26. We find it would be reasonable to grant the order for eviction; in coming to this conclusion we took into account the following matters:-
27. There were more than three months' rent arrears as at the time that the notice to leave was served. The landlord at that point agreed to a repayment arrangement with the tenant. The tenant made payments for about three months towards rent and arrears however, did not clear the arrears and then made no payments whatsoever towards rent or arrears from July 2026. The letting agents did not believe there were any outstanding benefit issues to be resolved. The tenant is a single man residing in the property with no dependents. He is in employment. We were not aware of any mitigation in his favour which would provide a reason for not granting the order. The landlord has retired and relies in part on the rental payments for this property. She also has to pay various outgoings for the property. She only rents out this one property. It is causing the landlord financial detriment, and will continue to do so if the order is not granted. We consider that, in all the circumstances, it is reasonable to grant an order for eviction
28. Accordingly, considering the papers before us and the oral submission by the applicant's agent, the tribunal was prepared to grant the order for recovery of

possession, given that the first part of ground 12 was met and in all the circumstances it appeared to us to be reasonable to grant the order.

Decision

29. The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Melanie Barbour	**11 11 26**
Legal Member/Chair	**Date**