

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/26/0473

Re: Property at 19B LOTHIAN STREET, HAWICK, TD9 9HD (“the Property”)

Parties:

MR ALISTAIR HOGG, C/O CULLEN KILSHAW LETTINGS LTD, 27 MARKET STREET, GALASHIELS, TD1 3AF (“the Applicant”)

MR TROY MCGREGOR, 19B LOTHIAN STREET, HAWICK, TD9 9HD (“the Respondent”)

Tribunal Members:

**Alison Kelly (Legal Member) and Elaine Munroe (Ordinary Member)
The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be granted.**

Background

1. On 29th January 2026 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 7th July 2025 and a rent of £400 per month;
 - ii. Copy Notice to Leave dated 23rd October 2025;
 - iii. Copy email dated 23rd October 2025 to the Respondent serving the Notice to Leave;
 - iv. Section 11 Notice and proof of service;
 - v. Pre Action Requirements emails;
 - vi. Emails between Respondent and letting agent;
 - vii. Rent Statement showing arrears of £2400 at 7th January 2026.

3. The Application was served on the Respondent by Sheriff Officers on 10th July 2026.
4. On 7th August 2026 the Applicant's solicitor lodged an up to date rent statement showing that the arrears are now £5200, and that in the year since the tenancy began only the first month's rent was ever paid by the Respondent.

Case Management Discussion

5. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Mr Rodger of Cullen Kilshaw, Solicitors. There was no attendance by the Respondent or any representative on his behalf.
6. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
7. Mr Rodger sought an order for eviction in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. He said that the rent arrears were currently £5200. There had only been one payment in the last year and the position was untenable for the Applicant. He said that the Respondent was not engaging with his firm's rental department.
8. Mr Rodger said that the property has two bedrooms but the Respondent lives there alone. It has not been adapted in any way to accommodate a disability. He is not aware of the Respondent suffering poor health. He is not aware of the Respondent being in employment. He noted that there was mention of Universal Credit in the email correspondence between the Respondent and the letting agent but no Universal Credit has ever been received towards the rent.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing 7th July 2025 and a rent of £400 per month
- b. A Notice To Leave, dated 23rd October 2025, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. The Applicant complied with the Pre Action Requirements;
- e. The Application was served on the Respondent by Sheriff Officers on 10th July 2026;
- f. Arrears at the time of the service of the Notice to Leave were £1200;
- g. Arrears at today's date are £5200;
- h. Only one month's rent has been paid by the Respondent since the tenancy commenced;
- i. The Respondent lives alone in the property.

Reasons for Decision

9. Ground 12 states as follows:

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.

10. The Tribunal is satisfied, due to the level of arrears at the date of service of the Notice to leave, and at today's date that the ground has been met.

11. The Tribunal is also satisfied, given the level of arrears and the fact that only one month's rent has ever been paid by the respondent that it is reasonable to grant the order.

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.

Alison Kelly

10th August 2026

Legal Member/Chair

Date