

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 Sections 51 and 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Reference No: FTS/HPC/EV/24/4267

Property: 21 Barward Road, Galston, KA4 8BX (“the Property”)

Henburn Property Limited, Purroch Farm Mauchline Road, Hurlford, Kilmarnock, KA1 5JJ (“the Applicant”) and

Kilpatrick and Walker Solicitors, 4 Wellington Square, Ayr, KA7 4EN (“the Applicant’s Representative”) and

Mr Dylan Nixon, 21 Barward Road, Galston, KA4 8BX (“the Respondent”)

Tribunal Members:

**G McWilliams- Legal Member
T Cain - Ordinary Member**

Decision in absence of the Respondent:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines to grant an eviction order.

Background

1. This is an Application for an eviction order in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

Case Management Discussion

2. A Case Management Discussion (“CMD”) proceeded by remote teleconference call at 2pm on 8th April 2025. The Applicant’s Representative’s Mr K Walker attended. The Respondent did not attend and was not represented. There was no explanation for his absence. The Tribunal noted that the Application case papers, and details of the CMD, had been intimated to Mr Nixon by Sheriff Officers on 25th February 2025.
3. Mr Walker referred to the Application case papers, in particular the Rent Statement showing outstanding rent of £4985.57 due at 18th October 2024. He stated that Mr

Nixon had not paid any rent since August 2024 and that the current rental arrears amount is £7,360.57. Mr Walker said that Mr Nixon has not been replying to the Applicant's letting agents' communications regarding property inspections. He said that the letting agents had confirmed that Mr Nixon was still residing in the Property when the Applicant had a new boiler installed there in December 2024. Mr Walker said that the letting agents understand that Mr Nixon still resides in the Property. He stated that the letting agents understand that Mr Nixon is a professional boxer but is unemployed at the moment, that he lives alone in the Property, and that he has no known health conditions. Mr Walker also stated that Mr Nixon has not engaged with the letting agents to set up a payment plan in respect of arrears of rent. Mr Walker submitted that given the extent of the arrears of rent, and as there has been no rent paid since August 2024, and as Mr Nixon has not engaged with the letting agents and not attended the CMD, it was appropriate and reasonable to have the eviction order granted.

Findings in Fact and Law and Reasons for Decision

4. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy ("PRT") if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
5. Schedule 3 (12) (1) to the 2016 Act provides that it is an eviction ground that a tenant has been in rent arrears for three or more consecutive months.
6. Therefore, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for an eviction order against tenants (such as the Respondent) in respect of a tenancy such as the tenancy agreement of the parties.
7. Having considered all of the documentary evidence, representations and the submission of Mr Walker, the Tribunal finds in fact that the Applicant has provided the Tribunal, in their Application for an eviction order, with copies of the parties' PRT, the Notice to Leave ("NTL") served on the Respondent on 6th June 2024 and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to East Ayrshire Council on 9th September 2024. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. The NTL, and the Application for an eviction order, proceed in terms of Schedule 3 (12) in the 2016 Act. The Tribunal further finds in fact that when the Application was lodged with the Tribunal's office, in October 2024, the Respondent was in rent arrears of £4985.57. He has not paid any rent to the Applicant since. The current rent arrears are in the sum of £7360.57. The Respondent remains resident in the Property.
8. In making its findings in fact the Tribunal relied on the documentation within the Application and, in particular, the oral submission of Mr Walker, the terms of which were consistent with the terms of the relevant documentation.
9. The Tribunal, in making their findings in fact, also placed reliance on the absence of any contradictory information or submissions from the Respondent Mr Nixon.

The Application case papers and details of the CMD had been intimated to him by Sheriff Officers on 25th February 2025. He is aware of the important nature of the Application but he has not attended at the CMD and has not made any oral or written representations regarding the merits and the reasonableness of the grant of the eviction order sought.

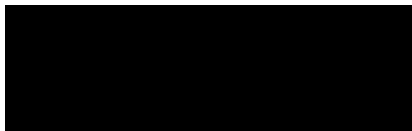
10. Accordingly, the Tribunal finds in law that the ground in Schedule 3 (12) of the 2016 Act is met as the Respondent Mr Nixon has been in rent arrears for three or more consecutive months and that it is reasonable that an eviction order be granted.

Decision

11. Therefore, the Tribunal makes an order for eviction of the Respondent Mr Dylan Nixon from the Property at 21 Barward Road, Galston, KA4 8BX.

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.



Legal Member

8th April 2025

Date