



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51 Private Housing
(Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

Chamber Ref: FTS/HPC/EV/24/5456

Property at 14 Union Street, Newport-on-Tay, Fife, DD6 8BP (“the Property”)

Parties:

**Mr Alan Moulds, 21 West Acres Drive, Wormit, Newport-on-Tay, Fife, DD6 8NR
 (“the Applicant”)**

**Mr Grant Cockburn, 14 Union Street, Newport-on-Tay, Fife, DD6 8BP (“the
Respondent”)**

Tribunal Members:

Josephine Bonnar (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an eviction order should be granted against the
Respondent in favour of the Applicant.**

Background

1. The Applicant lodged an application for an eviction order in terms of Section 51 and Ground 12 of schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave and section 11 notice were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer and the parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 9 June 2025 at 10am and that they were required to participate.
3. The CMD took place on 9 June 2025. The Applicant participated. The Respondent did not participate.

Summary of Discussion at CMD

4. Mr Moulds told the Tribunal that the Respondent still resides at the property but has not engaged with him for some time. The last payment to the rent account was £150 in June 2024 and the arrears now exceed £6000. Mr Moulds son has spoken to both the Respondent and his former partner, who lives nearby. She indicated that the Respondent has done this before. Mr Moulds said that he has been to the property on numerous occasions to try to speak to the Respondent, without success, and sent many text messages. In addition, four letters in compliance with the Rent Arrears Pre Action Protocol were served on the Respondent by Sheriff Officer. He did not respond.
5. In response to questions from the Tribunal, Mr Moulds said that the Respondent is a bricklayer. Although self-employed, he mainly works for a local company. He has two children, but they live with his ex-partner. He was offered the tenancy so that he could be close to his children. He is understood to be in good health. He is known to spend a lot of time at a local pub. Mr Moulds said that he has been encouraged to speak to the Council about re-housing, but he doesn't know if he has done so.
6. Mr Moulds told the Tribunal that he is 71 years of age and is semi-retired. The property and one other rental property were purchased to fund his retirement, as he doesn't have much of a pension. The rent arrears are therefore having an adverse effect on his finances, particularly as he and his wife look after two grandchildren five weeks out of eight.

Findings in Fact

7. The Applicant is the joint owner and landlord of the property.
8. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
9. The Respondent is due to pay rent at the rate of £420 per month.
10. The Respondent has been in arrears of rent since April 2024, and no payments of rent have been received since June 2024.
11. The Respondent currently owes over £6000 in unpaid rent.
12. The Applicant served a Notice to leave on the Respondent on 21 October 2024.
13. The Respondent resides at the property alone. He has two children who reside with their mother.
14. The Respondent is in employment.

15. The Respondent has failed to respond to letters issued to him in compliance with the rent arrears pre action protocol.

Reasons for Decision

16. The application was submitted with a Notice to Leave dated 21 October 2024, together with a Sheriff Officer certificate of service which establishes that the Notice was served on the Respondent on that date. The Notice states that an application to the Tribunal is to be made on ground 12, rent arrears over three consecutive months.
17. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
18. Section 51(1) of the 2016 Act states, “The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”
19. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states “(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in 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.”
20. Sub-Paragraph (4) states, “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 Minister in regulations.” Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant’s rights in relation to eviction proceedings and how the tenant can access information and advice.
21. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Respondent currently owes over £6000 and that he has been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Part 1 of Ground 12 is therefore established.

22. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -

- (a) The Tribunal is satisfied that the Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant provided information to the Tribunal at the CMD in relation to four letters issued to the Respondent in compliance with the protocol.
- (b) The Tribunal is also satisfied that there is no evidence that the arrears are attributable to a delay or failure in the payment of a relevant benefit. The Respondent is understood to be in full time employment.
- (c) The arrears are substantial and increasing. No payments have been made for 12 months
- (d) The Respondent did not participate in the CMD or notify the Tribunal if the application is opposed.
- (e) Although the Respondent has two children, they reside with the mother and will not be affected by an eviction order being granted.
- (f) The Applicant relies on the rental income and the arrears are therefore causing financial issues for him.

23. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act that ground 12 has been established. For the reasons outlined in paragraph 22, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

24. The Tribunal determines that an eviction order should be granted against the Respondent.

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.

J Bonnar