



**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/24/5619

**Re: Property at 3 Kirkton of Skene Cottages, Kirkton of Skene, Westhill, AB32
6XE (“the Property”)**

Parties:

**Mr George F Pearson, Dunecht Estates Office, Dunecht, Westhill, AB32 7AW
 (“the Applicant”)**

**Mr Alexander Thornton, 3 Kirkton of Skene Cottages, Kirkton of Skene,
Westhill, AB32 6XE (“the Respondent”)**

Tribunal Members:

Alison Kelly (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the order for eviction should be granted.**

Background

1. On 6th December 2024 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 28th October 2022 and a rent of £500 per month;
 - ii. Copy Notice to Leave dated 22nd October 2024;

- iii. Copy email dated 22nd October 2024 to the Respondent serving the Notice to Leave;
 - iv. Section 11 Notice and proof of service;
 - v. Copy Rent Statement showing arrears of £6114.41 as at 1st December 2024;
 - vi. Pre Action Requirements emails.
3. On 19th June 2025 the Tribunal received an email from South West Aberdeenshire Citizens Advice Bureau confirming that they had been consulted by the Respondent, confirming that they had advised him to declare himself bankrupt and asking that he be allowed to stay in the house.

Case Management Discussion

4. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Mr Morrison, their Head of Rural Enterprise. The Respondent represented himself.
5. 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.
6. Mr Morrison 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 current arrears were £9614.41 and that there had been no credits/payments to the account since the application was lodged.
7. The Tribunal asked the Respondent for his position. He accepted that he had not paid rent for over a year, and he accepted that the sum outstanding was £9614.41. He said he would love to stay in the property. Around 15 months ago he was close to agreeing a repayment arrangement with the Applicants but they then changed the amount they were looking for. He said he has had poor mental health. He said he has made stupid decisions that he regrets. He is looking for time to enter in to an arrangement and pay the arrears. He said he had buried his head in the sand and couldn't defend anything he had done.
8. The Tribunal asked what income the Respondent had, and he said he received Universal Credit. He confirmed that he did receive the housing element, and he also confirmed that instead of paying it to the Applicant he had spent it. He said that he felt like he was a huge part of the village and he would be gutted if he got kicked out.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing on 28th October 2022 and a rent of £500 per month
- b. A Notice To Leave, dated 22nd October 2024, 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 rent arrears when the Notice to Leave was served were £5614.41;
- f. The rent arrears as at the date of the CMD are £9614.41;
- g. The Respondent has been in arrears of rent for three or more consecutive months;
- h. The Respondent received the housing element of Universal Credit and did not pay it to the Applicant.

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 are satisfied that the ground has been met as there are arrears for more than three consecutive months, and these are not as a result of failure of delay in payment of a benefit.

11. The Tribunal also consider in those circumstances that it is reasonable to grant the order. The level of arrears in and of itself make it reasonable, and are compounded by the fact that the Respondent received the Housing element of Universal Credit and spent it rather than paying it to the Applicant.

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.

A. Kelly

3rd of July 2025

Legal Member/Chair

Date