

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 Reference No: FTS/HPC/EV/24/5563

Re: Property at 6 The Promenade, Port Seton, EH32 0DF (“the Property”)

Parties:

Clelland Properties Limited, 19 Abbots View, Haddington, East Lothian, EH41 3QQ (“the Applicant”) and

Mr Kieran Black, 6 The Promenade, Port Seton, EH32 0DF (“the Respondent”)

Tribunal Members:

**G McWilliams- Legal Member
E Williams - 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 2.00pm on 1st September 2025. The Applicant’s director Mrs K Hamilton attended. The Respondent Mr Black did not attend and was not represented. The Tribunal noted that Sheriff Officers served copies of the Application papers, and details of the CMD, upon Mr Black personally on 17th July 2025.
3. Mrs Hamilton referred to the Application case papers and her subsequent e-mails sent to the Tribunal’s office. She stated that Mr Black had not paid any rent since June 2024 and that rent arrears, at 29th August 2025, are in the now in the sum of £12,600.00. She said that Mr Black last contacted her around nine months ago

when he said that he had lost his job and was suffering from depression. Mrs Hamilton stated that she was able to access the Property to have a PAT test carried out in June 2025. She said that Mr Black was not present when that was done. Mrs Hamilton further stated that she regularly visits Port Seton as her late mother's ashes and memorial bench are there. She said that she always passes the Property and, as far as she is aware, Mr Black remains resident there. Mrs Hamilton submitted that, given the extent of the arrears of rent, it was appropriate and reasonable to have an 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 Application papers and the submission of Mrs Hamilton, the Tribunal finds in fact that the Applicant, Clelland Properties Limited, has provided the Tribunal, in the Application for an eviction order, with copies of the Notice to Leave ("NTL") served on Mr Black and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to East Lothian Council. These documents 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 December 2024, Mr Black, was in rent arrears of £4,500.00. He has not paid any rent since June 2024 and the current rent arrears are in the sum of £12,600.00.
8. In making its findings in fact the Tribunal relied on the documentation in the Application papers, and subsequently submitted, as well as the oral submission of Mrs Hamilton, 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 submission from the Respondent Mr Black. 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 Black 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 Kieran Black from the Property at 6 The Promenade, Port Seton, EH32 0DF

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.

**G McWilliams
Tribunal Legal Member**

1st September 2025