



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/25/4159

Re: Property at Brussels Cottage, 53 North Deeside Road, Kincardine O'Neil, Aboyne, AB34 5AA (“the Property”)

Parties:

Mr Andrew Edward Hanning Bradford, Kincardine Estate, Kincardine Estate Office, Kincardine O'Neil, Aboyne, AB34 5AE (“the Applicant”)

Mr Wayne Reid, Miss Sarah Louise Mackie, Brussels Cottage, 53 North Deeside Road, Kincardine O'Neil, Aboyne, AB34 5AA; 13A Main Road East, Echt, Westhill, AB32 6HP (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Nick Allan (Ordinary Member)

Decision (in absence of the First Named Respondent)

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 September 2025 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: -
 - a. Copy Private Residential Tenancy Agreement showing a commencement date of 31st March 2022 and a rent of £550 per month;
 - b. Copy Notice to Leave dated 8th August 2025;
 - c. Copy email dated 8th August 2025 to the Respondent serving the Notice to Leave;

- d. Section 11 Notice and proof of service;
 - e. Copy Rent Statement showing arrears of £3057.05 as at 30th September 2025;
 - f. Pre Action Requirements emails
3. The Application was served on the Respondents by Sheriff Officers on 5th February 2026.
 4. The CAB sent, on behalf of the First Named Respondent, a request to postpone the case to investigate his financial position. The request was refused by the Tribunal as the purpose of a Case Management Discussion is to establish what is in dispute.

Case Management Discussion

5. On the morning of the Case Management Discussion (“CMD”), 16th March 2026, the Tribunal’s telephone system for holding teleconference calls malfunctioned. Some participants could not dial in. The Tribunal’s administration decided to convert the afternoon CMDs to videoconference calls in an attempt to make sure they could be held.
6. The Clerk sent the videoconference link to the First Named Respondent’s representative at the CAB. She replied to say that she would not be joining the call as she was ill. She was asked to pass the link to the First Named Respondent. The Clerk was unable to obtain confirmation that she had done so. took place by teleconference.
7. The Second Named Respondent does not have a representative. Papers were served on her by Sheriff Officer advising of the teleconference details. There was no way of communicating to her the change to videoconference.
8. The CMD was called at 2.15. Mr Gordon from Thorntons, solicitors represented the Applicant. The Applicant was also on the call. Neither Respondent joined.
9. The Chairperson explained the circumstances and confirmed that due to the change of mode of the CMD, and the lack of attendance by the First Named Respondent’s representative, the Tribunal was not in a position to deal with the CMD and that it would have to be adjourned to a later date.
10. A new CMD was fixed for 27th March 2026. Notification letters were sent to each Respondent and to the Applicant’s solicitor on 27th March 2026.

Continued Case Management Discussion

11. A new CMD took place on 20th April 2026 by teleconference. Mr Gordon from Thorntons, Solicitors represented the Applicant. The Second Named Respondent (“SLM”) dialled in and represented herself. The First Named Respondent (“WR”) did not join the call.

12. Mr Gordon said that the current rent arrears stood at £5635.69. He said that there was a suggestion that the WR was going to move out by the end of April. SLM said that she was not opposed to the order being granted as she had moved out of the property in July 2024. She said that she had heard on the grapevine that WR had already moved out.

Findings In Fact

- i. The parties entered in to a Private Residential Tenancy commencing on 31st March 2022 and with a rent of £550 per month;
- ii. Copy Notice to Leave dated 8th August 2025 was served timeously;
- iii. Section 11 Notice was served on the local authority timeously;
- iv. The Pre Action Requirements were met;
- v. The Application was served on the Respondents by Sheriff Officers on 5th February 2026.
- vi. Rent arrears stood at £3057.05 as at 30th September 2025;
- vii. Rent arrears are now £5635.69.

Reasons for Decision

13. 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.*

14. The Tribunal is satisfied that the ground has been met due to the level of arrears, and that the rent account has been in arrears for three or more consecutive months. The Tribunal is satisfied that the level of arrears, being in excess of 10 months rental payments makes it 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.

Legal Member/Chair

Alison Kelly

Date: 20th April 2026