

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**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/25/4782**

**Re: Property at The Bank House, 10 Market Square, Duns, TD11 3ED (“the Property”)**

**Parties:**

**Mrs Mhairi Browne, The Bank House, 88 High Street, Coldstream, TD12 4AG (“the Applicant”) and**

**Mr Christopher Browne, Flat 11 Wells Court, Pumphouse Crescent, Watford, WD17 2AA (“the Applicant’s Representative”) and**

**Mr Charles Clark, The Bank House, 10 Market Square, Duns, TD11 3ED (“the Respondent”)**

**Tribunal Members:**

**G McWilliams: Legal Member**

**A Khan: 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 tele-conference call at 10am on 4<sup>th</sup> June 2026. The Applicant Mrs Browne’s Representative, Mr C Browne, is her son. He attended at the CMD as did his sister, Ms K Browne. He stated Mrs Browne is currently in hospital. The Respondent, Mr Clark, did not attend and was not represented. Mr Browne said that his family understand that Mr Clark is also in hospital, following an incident at the Property on 19<sup>th</sup> May 2026. The Tribunal noted that Sheriff Officers had served copies of the Application papers, and details of the CMD, personally on Mr Clark, on 28<sup>th</sup> April 2026.

3. Mr Browne referred to the Application papers and his subsequent emails sent to the Tribunal's office. He also provided the Tribunal with a copy of a text message sent by a friend of Mr Clark, Mr J Scott, to his father Mr G Browne, (the co-owner of the Property) on 26<sup>th</sup> May 2026. In that message Mr Scott stated that Mr Clark does not oppose the grant of an eviction order but seeks to recover his belongings and papers from the Property. Mr Browne said Mr Clark's rent arrears in respect of his tenancy of the Property are now in the sum of £11,850.00, and that there has been considerable damage done to the Property by Mr Clark.
4. Ms Browne stated that her mother and father are suffering considerable financial difficulties as a result of non-payment of rent and damage to the Property. She said that her mother and father's outstanding mortgage arrears are in the approximate sum of £16,000.00.
5. Both Mr Browne and Ms Browne stated that their parents wish to recover possession of the Property and sell it as soon as possible.

### **Findings in Fact and Law and Reasons for Decision**

6. 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.
7. Schedule 3 (1) (1) of the 2016 Act provides that it is an eviction ground that a landlord intends to sell the let property and confirms the criteria for the grant of an eviction order on this ground.
8. The Tribunal considered all of the Application papers and Mr and Ms Browne's oral submissions. Having done so, the Tribunal found in fact that the Applicant seeks recovery of the Property in order to sell it and found in law that Ground 1 in Schedule 3 to the 2016 Act is satisfied.
9. In making its findings in fact the Tribunal relied on the documentation in the Application papers, and subsequently submitted, as well as the submissions of Mr and Ms Browne, the terms of which were consistent with the terms of the relevant documentation. The Tribunal also placed reliance on the absence of any contradictory information or submission from Mr Clark, and the terms of the text message from Mr Scott, referred to in paragraph 3 above.

### **Decision**

10. Therefore, the Tribunal makes an order for eviction of the Respondent, Mr Charles Clark, from the Property at The Bank House, 10 Market Square, Duns, TD11 3ED.

## **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**

**4<sup>th</sup> June 2026**

**Tribunal Legal Member**