



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/CV/25/4171

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”)

Miss Sarah Louise Mackie, Mr Wayne Reid, 13A Main Road East, Echt, Westhill, AB32 6HP; Old Mains and The Chalet, Lumphanan, Banchory, AB31 4RU (“the Respondents”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the second Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the second Respondent is liable to pay the Applicant the sum of **Five thousand four hundred and nineteen pounds and fifty five pence (£5419.55) Sterling** under the terms of the tenancy agreement between the parties and made a payment order in that sum with interest at the rate of 8% per annum from the date of this decision until payment.

The Tribunal further determined to dismiss the application against the first Respondent.

Background

- 1 This is an application for a payment order in respect of rent arrears arising from a private residential tenancy under rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”).
- 2 The application was accepted as valid and referred to a tribunal for determination. A case management discussion (“CMD”) was scheduled to take

place on 16 March 2026 at 10am. Notice of the CMD was given to the parties in accordance with Rule 17(2) of the Rules.

- 3 Prior to the CMD the tribunal received a mandate from the Citizens Advice Bureau ("CAB") authorising them to act as Mr Reid's representative. The CAB requested a postponement of the CMD to give them time to investigate Mr Reid's financial position. The request was refused by the tribunal.

The CMDs

- 4 The first CMD was due to take place on 16 March 2026 at 2pm. Due to a malfunction with the teleconference system the CMD could not proceed as there was insufficient time to facilitate all parties' attendance via a different forum. The CMD was therefore adjourned.
- 5 On 13 April 2026 Mr Gordon sent an up to date rent statement to the tribunal along with a request to increase the sum claimed in accordance with rule 14A of the Rules to £5635.69.
- 6 The second CMD took place on 20 April 2026 by teleconference. Mr Gordon appeared on behalf of the Applicant. Miss Mackie joined the call. Neither Mr Reid nor his representative were in attendance.
- 7 Mr Gordon explained that the request to increase the sum sought had been served on Miss Mackie but not Mr Reid. He asked that this be done by way of advertisement on the Housing and Property Chamber website given that Mr Reid was believed to have vacated the property.
- 8 Miss Mackie explained that she had vacated the property on 29 July 2024. She had advised the Applicant of this by email. Attempts were made to obtain agreement from Mr Reid to the tenancy coming to an end and a new tenancy constituted. However, Mr Reid did not respond. Miss Mackie did not consider it fair that she was responsible for his arrears when she had given notice. Mr Gordon advised that the law required the tenancy to be terminated by both tenants.
- 9 Having heard from the parties the tribunal agreed that the Applicant's rule 14A request and the notification of the new CMD should be served on Mr Reid by way of advertisement on the Housing and Property Chamber website. The CMD was therefore adjourned.
- 10 On 23 April 2026 the Tribunal received an email from Mr Gordon with a new address for Mr Reid. Mr Gordon noted that the Tribunal had granted an eviction order on 20 April 2026 and the Applicant was therefore seeking a payment order in the reduced sum of £5419.55. On 25 April 2026 the Tribunal received an email from Mr Gordon with proof that the rule 14A request had been delivered to Mr Reid's new address by recorded delivery mail.

- 11 The third CMD took place on 10 September 2026 at 2pm by teleconference. Notice of the CMD had been given to the parties in accordance with Rule 17(2) of the Rules.
- 12 Mr Gordon represented the Applicant. Miss Mackie joined the call. Mr Reid did not, nor did his representative. Mr Gordon advised that he had received no contact from Mr Reid following the service of the rule 14A request. The Applicant had found a new address for Mr Reid locally. The tribunal was satisfied that Mr Reid had been given sufficient opportunity to participate in the proceedings and therefore determined to proceed in his absence.
- 13 Mr Gordon advised that the Applicant was content to dismiss the application against Miss Mackie given her attempts to terminate the tenancy and the fact that the arrears had accrued after she had left the property. Insofar as Mr Reid, the Applicant sought a payment order in the sum of £5419.55 with interest at the rate of 8% per annum.

Findings in fact and law

- 14 The Applicant is the owner and landlord, and the Respondents were tenants, of the property in terms of a private residential tenancy agreement.
- 15 The rent due under the tenancy agreement was £550 per month. The rent was subsequently increased to £603.41 per month.
- 16 The Respondents were jointly and severally liable for the rent due under the tenancy.
- 17 The first Respondent left the property in July 2024. The first Respondent made efforts to terminate the joint tenancy, but the second Respondent refused to engage.
- 18 Following the first Respondent's departure, the second Respondent began to accrue rent arrears.
- 19 On 20 April 2026 the Tribunal granted an eviction order terminating the tenancy between the parties.
- 20 As at 20 April 2026 rent arrears in the sum of £5419.55 had accrued.
- 21 The second Respondent is liable to pay the Applicant the sum of £5419.55 under the terms of the private residential tenancy agreement between the parties.

Reasons for decision

- 22 The tribunal carefully considered all documentary evidence and the submissions from the parties in determining the application. The documents are referred to for their terms and reflected in the tribunal's findings in fact.
- 23 The tribunal considered it could proceed to a decision at the CMD and it would not be contrary to the interests of the parties to do so. The second Respondent had not sought to oppose the application. The initial representations from his representative indicated he was simply looking to investigate his financial position, presumably with a view to reaching a payment plan. He had produced no evidence to the tribunal to contradict the documents and submissions from the Applicant.
- 24 The tribunal was therefore satisfied based on the documents produced by the Applicant that rent arrears of £5419.55 were due to be paid by the second Respondent. Whilst the first Respondent had remained a joint tenant of the property until its termination, the second Respondent was jointly and severally liable for the obligations under the tenancy agreement. The Applicant is therefore entitled to pursue only the second Respondent for the entire debt if that is his wish. The tribunal considered this to be a reasonable position particularly as the arrears accrued after the first Respondent left the property, having made efforts to bring her interest in the tenancy to an end.
- 25 The tribunal therefore determined to make a payment order in the sum of £5419.55 against the second Respondent. The tribunal further determined to exercise its discretion under rule 41A of the Rules and award interest at the rate of 8% per annum from the date of decision until payment. The second Respondent had not sought to oppose this and the tribunal considered it reasonable, being in line with the judicial rate applicable in the sheriff court.
- 26 The tribunal further determined to dismiss the application against the first 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.

10 September 2026

Legal Member/Chair

Ruth O'Hare

Date