

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL

Reference: RPT/0019/12/24

In the Matter of The Cottage, 15 Pontmorlais West, CF 47 84T

In the matter of an application under s.32 of the Housing (Wales) Act 2014

Applicants: Cyrus Coxwain

Respondent: Robert Chatwin

Tribunal Judge Shepherd

1. In this case the Applicant, Cyrus Coxwain (who asked to be known simply as Cyrus) made an application for a Rent Repayment Order under the Housing and Planning Act 2016. The Rent Repayment Order provisions like the majority of the 2016 Act apply to England only. His application was dated 27th September 2024. In his application he stated that the grounds for applying for the Rent Repayment Order related to disrepair and trespass. He made various allegations about his landlord, the Respondent. The premises occupied by the Applicant and at the centre of his application is in Wales. The address is The Cottage, 15 Pontmorlais West, CF 47 84T (“The premises”).

2. The Rent Repayment Order was sent to the Southern Region of the First Tier Tribunal (Property Chamber) in England. They wrote to the Applicant on 1st October 2024. They stated the following:

Unfortunately, the Southern Tribunal are only able to deal with properties that fall within our jurisdiction. As the address of the property is located in Wales, you would need to make an application through the Welsh Property Tribunal....

3. Although a fresh application was not made in Wales the matter eventually reached the Residential Property Tribunal in Newport. I was asked to consider the matter. On a preliminary reading of the papers I considered that it was almost certain that the RPT had no jurisdiction to determine this case. A case management hearing was arranged with the express purpose of considering the question of jurisdiction. The original hearing scheduled for 25th February 2025 was adjourned because the Applicant had other commitments. It took place on 12th March 2025 and was attended by the Applicant and Ms Gwilym representing the Respondent.

4. At the hearing which took place on-line I informed the Applicant of my doubts about jurisdiction. He did not accept the reasons I gave and maintained that he was entitled to apply for a Rent Repayment Order. Ms Gwilym repeated the submissions she had provided in writing. The Applicant appears to have confused an application for a Rent Repayment Order with the unfitness provisions in the Renting Homes Wales Act 2016. Under that Act a tenant has in some circumstances the right to withhold rent when his or her property is unfit. Withholding rent is different from the repayment of rent already paid as in a Rent Repayment Order. In any event the application before the Tribunal was not brought under the Renting Homes Wales Act 2016. Disrepair and rent arrears cases of the type that might engage that Act are decided by the County Court and not the Tribunal.

5. The jurisdiction to make a Rent Repayment Order in Wales is dictated by Section 32 of the Housing (Wales) Act 2014. The relevant parts of this section state the following:

32.— Rent repayment orders

(1) A residential property tribunal may, in accordance with this section and section 33, make an order (a “rent repayment order”) in relation to a dwelling on an application made to it by—...

(c) a tenant of the dwelling.

(2) But a local housing authority may not make an application under subsection (1) without the consent of the licensing authority mentioned in paragraph (a) of that subsection (unless it is the licensing authority); and consent for that purpose may be given generally or in respect of a particular application.

(3) A “rent repayment order” is an order made in relation to a dwelling which requires the appropriate person (see subsection (9)) to pay to the applicant such amount in respect of the relevant award or awards of universal credit or the housing benefit paid as mentioned in subsection (5)(b), or (as the case may be) the periodical payments paid as mentioned in subsection (7)(b), as is specified in the order.

(4) The tribunal may make a rent repayment order only if it is satisfied—

....(b) where the applicant is a tenant, of the matters mentioned in subsection (7).

....(7) The tribunal must be satisfied that—

(a) a person has been convicted of an offence under section 7(5) or 13(3) in relation to the dwelling, or that a rent repayment order has required a person to make a payment in respect of—

(i) one or more relevant awards of universal credit, or

(ii) housing benefit paid in connection with a tenancy of the dwelling;

(b) the tenant paid to the appropriate person (whether directly or otherwise) periodical payments in respect of the tenancy of the dwelling during any period during which it appears to the tribunal that such an offence was being committed in relation to the dwelling, and

(c) the application is made within the period of 12 months beginning with—

(i) the date of the conviction or order, or

(ii) if such a conviction was followed by such an order (or vice versa), the date of the later of them.

6. Section 32 above is an enforcement provision that follows the provisions on licensing in Wales which in general terms require all private rented properties to be licensed by Rent Smart Wales. The premises in the current case is licensed. The disrepair issues raised by the Applicant do not meet the requirements in s.32. This is why the Tribunal does not have jurisdiction to hear the Rent Repayment Order application. The Applicant may have valid complaints about the condition of the premises but they can't be decided under the Rent Repayment Order criteria.

7. In summary the Tribunal does not have jurisdiction to hear the application.

Judge Shepherd

12th March 2025