



**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/23/0908**

**Re: Property at 16 Shaw's Street, Edinburgh, EH7 4PH (“the Property”)**

**Parties:**

**Mr Neil Paterson, 66 Silverknowes View, Edinburgh, EH4 5PS (“the Applicant”)**

**Mr Stuart Leckie, 16 Shaw's Street, Edinburgh, EH4 7PH (“the Respondent”)**

**Tribunal Members:**

**Nairn Young (Legal Member) and Elizabeth Williams (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicant. It called for case management discussion (‘CMD’) at 2pm on 6 December 2023, by teleconference. The Applicant was on the call in-person. The Respondent was not on the call or represented. The commencement of the CMD was delayed by 10 minutes in case he was experiencing any technical difficulty; but there remained no contact from him.

The matter had previously called for a CMD on 8 August 2023, at which the Respondent did appear. He was emailed the details of this CMD, to the address he

had supplied in responding to the application, on 24 October 2023. The Tribunal concluded he chosen not to attend this CMD and that it was therefore fair to proceed in his absence.

When he appeared at the previous CMD, the Respondent admitted the relevant factual background to the application, including the arrears, which at that time stood at £4,200. He gave an undertaking to pay £2,100 in the days following the CMD: and said he would work with the Applicant to reach agreement on the repayment of the remaining arrears.

- Findings in Fact

The Tribunal considered the following admitted facts as relevant to its decision:

1. The Applicant lets the Property to the Respondent in terms of a private residential tenancy agreement with a start date of 14 December 2021.
2. In terms of the tenancy agreement, rent of £700 is due on the 14<sup>th</sup> day of each month.
3. The Respondent paid no rent in November or December of 2022, or January or February 2023.
4. On 8 December 2022, 27 January and 4 February 2023, the Applicant sent the Respondent letters conforming with the requirements of the pre-action requirements set out by Scottish Ministers for rent arrears cases.
5. On 15 February 2023, the Applicant sent the Respondent a notice to leave, stating that he would rely on Ground 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act') in any application to the Tribunal to follow.
6. On 15 February 2023, the Respondent was in arrears of rent of £2,800.

7. The Respondent made payments of £700 on 14 and 20 March and 14 April 2023; but he made no further payments prior to the first CMD in this case, on 8 August 2023.
8. On 8 August 2023, the Respondent was in arrears of rent to the sum of £4,200.
9. The Respondent lives on his own and is in employment, albeit on a zero hours contract.

The following further facts were taken into consideration by the Tribunal as presented by the Applicant at the CMD on 6 December 2023, in the Respondent's absence:

10. Since the previous CMD, the Respondent had paid £2,100 around the beginning of September 2023; £350 on 14 September and 3 November 2023; and also paid the rent arising.
  11. The Respondent has not responded to attempts by the Applicant to contact him to make a formal arrangement to reduce the arrears.
  12. The Applicant has been ordered to make a payment of £350 to the Respondent, as a sanction for having failed to place the deposit in an approved scheme timeously.
  13. Payment of that amount has not yet occurred, since the Applicant has not been able to get bank details from the Respondent to effect this.
- Reasons for Decision
14. As a preliminary matter, the Tribunal had to consider whether to allow the application to proceed under ground 12A. An application to that effect had

been made prior to the previous CMD, but without sufficient notice for it to be considered there. Given that the Applicant's own position was now that less than 6 months' rent was outstanding, there was no longer any factual case being made to support the amendment, so the Tribunal refused to allow it.

15. Thereafter, on the basis of the facts as above, the Tribunal considered that Ground 12 of Schedule 3 to the Act was satisfied. The Respondent has been in arrears for longer than a year, which is a substantial period of time. While some effort had been made since the last CMD to bring down the arrears, which now stood at £1,400 (or two months' worth), the Respondent had not engaged with the Applicant to make a formal arrangement to address the remainder, as he had undertaken to do at the CMD. He had not attended the CMD or made any further representations to the Tribunal. At the previous CMD, his representations were focussed on the idea that it was premature for the Applicant to be seeking to evict him on the basis of the arrears, since he could potentially have been granted a substantial award in his deposit case. To the extent that that was ever a factor that should weigh in his favour, the outcome of that case is now known; the amount awarded is far short of the arrears outstanding; and the Respondent has failed even to engage with the Applicant to receive the payment he has been awarded. In those circumstances, notwithstanding the fact the Respondent had continued to pay the rent, the Tribunal considered it was reasonable for the Applicant to seek eviction. It is not reasonable to expect a landlord to put up with arrears of this level on the account indefinitely, with no engagement from the tenant and, therefore, no apparent prospect of them ever being addressed.

- Decision

**Eviction order granted.**

## 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.



6 December 2023

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Legal Member/Chair

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Date