



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18(1) of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/23/1023

Re: Property at 20 Gladsmuir Road, Glasgow, G52 2HX (“the Property”)

Parties:

Gauld Properties, 22 Milnpark Street, Glasgow, G41 1BB (“the Applicant”)

**Mr John Bradley, Mrs Nancy Bradley, 20 Gladsmuir Road, Glasgow, G52 2HX;
20 Gladsmuir Road, Glasgow, G52 2HX (“the Respondents”)**

Tribunal Members:

Graham Harding (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that The Applicant was entitled to an order for possession of the property.

Background

1. By application dated 28 March 2023 the Applicant applied to the Tribunal for an order for the possession of the property. The Applicant submitted a copy of the tenancy agreement, Form AT6 and Notice to Quit with proof of posting, a Rent Statement, a Section 11 Notice and email and supporting correspondence in support of the application.
2. Following further correspondence between the Applicant and the Tribunal administration a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 13 June 2023.

The Case Management Discussion

4. A CMD was held by teleconference on 19 July 2023. The Applicant was represented by its property manager Ms Claire Trainer. The Respondent Mr John Bradley did not attend nor was he represented. Ms Trainer advised the Tribunal that although she had been unable to obtain any formal confirmation of the death of the Respondent Mrs Nancy Bradley it had been confirmed to her from both a neighbour and Mrs Bradley's brother that she had died on 8 December 2022. The Tribunal being satisfied that Mr Bradley had been given proper intimation of the CMD determined to proceed in the absence of the Respondent.
5. The Tribunal noted that Mr Bradley had moved out of the property soon after the death of Mrs Bradley. Ms Trainer explained that Mr Bradley was believed to have a drink problem and had relied on his mother as he was not very responsible. Ms Trainer said that she and a colleague had attended at the property the previous week to have a gas safety test carried out after providing the Respondent with appropriate notice. She said the correspondence left for the Respondent had been found behind the door unopened but earlier correspondence from March had been removed. She explained that a neighbour had advised her that Mr Bradley had attended at the property from time to time with another person and had been drinking alcohol there and had at times caused a nuisance by disturbing the neighbour asking for cigarettes and to borrow items.
6. Ms Trainer went on to say that she had left correspondence for Mr Bradley asking him to contact her to discuss the tenancy following the death of his mother but he had not been in touch. She said that when she had attended at the property for the gas safety test it had been quite unkempt. She said that rent was still being paid by Glasgow City Council at the rate of £455.68 every four weeks and the current rent arrears amounted to £2118.41.
7. In response to a query from the Tribunal, Ms Trainer confirmed that a colleague, Ms Jill Curran, had sent pre-action letters to the Respondent advising them to obtain advice from the CAB and to contact them to discuss the rent arrears. She explained that in the past arrears had built up when Mrs Bradley had been admitted to hospital and her benefits had been stopped and then when she returned home, she would make arrangements to reduce the arrears.
8. The Tribunal noted that the Respondents had been served with a Form AT6 and Notice to Quit and that a Section 11 Notice had been sent to Glasgow City Council by email.
9. The Tribunal noted that the Applicant owned about 101 properties that were rented out and that according to Ms Trainer the Respondent Mr Bradley was not living in the property but was living in Pollock with his brother and only visiting the property from time to time and effectively using it as a drinking den. She said she thought Mr Bradley was aged about 43 and drank every day. She

thought his drinking sometimes led to him making a nuisance of himself with neighbours.

10. Ms Trainer asked the Tribunal to grant the order for possession.

Findings in Fact

11. The parties entered into a Short Assured tenancy that commenced on 23 December 2015 and endured for one year until 22 December 2016 and from month to month thereafter.

12. The rent for the property was initially £540.00 per calendar month and is currently £600.00 per calendar month.

13. The Respondents have persistently delayed paying rent for much of the duration of the tenancy.

14. A Notice to Quit and Form AT6 were sent to the Respondents by recorded delivery post on 19 December 2022 and delivered on 22 December 2022.

15. At the date of service of the AT6 and Notice to Quit the Respondents owed rent of £1213.28.

16. At the date of the CMD the Respondents owed rent of £2118.41.

17. The Respondent Mr John Bradley is in receipt of Housing benefit amounting to £455.68 every four weeks which is paid to the Applicant.

18. Mrs Nancy Bradley died on 8 December 2022.

19. Mr John Bradley is not living permanently in the property but visiting from time to time.

20. A Section 11 Notice was sent to Glasgow City Council by email on 27 March 2023.

21. Pre-action letters were sent to the Respondent by the Applicant prior to proceedings being raised.

22. The Applicant owns about 101 rental properties.

23. The Respondent, Mr John Bradley, has not paid any additional rent payments since January 2023.

Reasons for Decision

24. The Tribunal was satisfied from the written representations and documents produced together with the oral submissions that the parties entered into a Short Assured tenancy that commenced on 23 December 2015 and endured for one year until 22 December 2016 and continued from month to month thereafter. The Tribunal was also satisfied that the initial rent was £540.00 per calendar month and had increased in June 2022 to £600.00 per month. It was clear from the rent statement that the Respondents had persistently had difficulty paying the full amount of rent due on time throughout much of the tenancy and that the rent arrears had become noticeably worse since October 2022. Although no formal confirmation of Mrs Bradley's death had been obtained it seemed likely from the information obtained by Mrs Trainer that she had died in December last year and that shortly thereafter Mr Bradley moved out of the property only to return occasionally. Upon the death of Mrs Bradley, Mr Bradley was the sole tenant.
25. The Tribunal accepted Ms Trainer's account of Mr Bradley using the property as a drinking den and that he was not using the property on a permanent basis. The Tribunal noted that Ms Trainer had managed to access the property for the purpose of carrying out a gas safety test and had noted the poor condition of the property and that it did not appear to be lived in. The Tribunal noted that earlier correspondence sent to Mr Bradley had been removed. It therefore appeared that he was aware of the current proceedings but had chosen not to participate in them. The Tribunal noted that the Form AT6 and Notice to Quit had been served on the Respondents by recorded delivery post and that Glasgow City Council had been sent a Section 11 Notice. The Tribunal was satisfied that the Respondents had persistently delayed paying rent during the tenancy and there were arrears both at the time of service of the Form AT6 and at the date of the CMD. The Tribunal was therefore satisfied that procedurally the terms of Grounds 11 and 12 of Schedule 5 of the Housing Scotland Act 1988 had been met subject to it being reasonable that an order be granted.
26. With regards to reasonableness the Tribunal was satisfied from the oral submissions of Ms Trainer that the pre-action protocol requirements had been met and that the Respondent Mr Bradley had been advised to seek advice from the CAB and to contact the Applicant to discuss matters. It appeared that the Respondent was no longer residing in the property and only visited the property from time to time. The Respondent has not participated in the proceedings and in all the circumstances the Tribunal was satisfied that it was reasonable to grant the order for possession.

Decision

27. The Tribunal having carefully considered the written representations and documents together with the oral submissions and being satisfied it had sufficient information before it to make a decision without the need for a hearing finds the Applicant entitled to an order for possession of the property under grounds 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988.

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.

Graham Harding

**Graham Harding
Legal Member/Chair**

**19 July 2023
Date**