

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 and Section 18 of the Housing (Scotland) Act 1988.

Chamber Ref: FTS/HPC/EV/23/2390

Re: Property at 20 Dungeonhill Road, Glasgow, G34 0AT (“the Property”)

Parties:

**Mrs Jane Stevenson, 508 Edinburgh Road, Glasgow, G33 3AH (“the Applicant”)
and**

**TCH Law, 29 Brandon Street, Hamilton, ML3 6DA (“the Applicant’s
Representative”) and**

**Ms Yvonne McLachlan, 20 Dungeonhill Road, Glasgow, G34 0AT (“the
Respondent”)**

Tribunal Members:

**G McWilliams- Legal Member
M Lyden - Ordinary Member**

Decision:

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determines to grant the Application.**

Background and Case Management Discussion on 27th November 2023

1. This Application has been brought in terms of Rule 65 (Application for an order for possession in relation to assured tenancies) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The parties entered into a short-assured tenancy agreement with a commencement date of 1st August 2016. The tenancy agreement’s monthly

rental payment amount is £550.00. The Applicant, Mrs Stevenson, through her Representative, served a Notice to Quit the Property and Notice of Intention to raise Proceedings for Possession of the Property on 18th May 2023. The latter Notice stated that proceedings were to be raised on the basis of various Grounds in Schedule 5 to the Housing (Scotland) Act 1988 (“the 1988 Act”), in particular that the Respondent, Ms McLachlan, had substantial rent arrears of £3545.00 (Ground 8A). The Applicant’s Representative subsequently lodged this Application with the Tribunal.

3. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call, at 10.00am on 27th November 2023. The Applicant’s Representative’s Mrs S. Saddiq attended. Ms McLachlan did not attend and was not represented. Sheriff Officers’ had intimated details of the CMD and copies of the Application papers to Ms McLachlan by letterbox posting at the Property on 20th October 2023.
4. Mrs Saddiq stated that Mrs Stevenson is over 80 years of age and is suffering from advanced stage cancer. She said that Mrs Stevenson is trying to tidy up her affairs quickly, in particular as she has a disabled son. Mrs Saddiq said that Mrs Stevenson owns 3 other properties and had also lived near to the Property, in Dungeonhill Road, until recently. Mrs Saddiq stated that Mrs Stevenson had to move from her own home in Dungeonhill Road temporarily because of harassment she has experienced at the hands of Ms McLachlan and the latter’s adult son. Mrs Saddiq said that since shortly after the commencement of the parties’ tenancy agreement Ms McLachlan has been in rent arrears. She stated that at the time this Application was lodged with the Tribunal, in July 2023, the rent arrears were in the sum of £4,645.00. Mrs Saddiq submitted that the monthly rent of £550.00 had not been paid since July and therefore the arrears are now in the sum of £6,845.00. She also referred to photographs of the interior and exterior of the Property which had been lodged with the Application. The Tribunal noted that the photographs seem to show damage to, and disrepair at, the Property.
5. Mrs Saddiq further stated that enquiries had been made with neighbours whose understanding is that Ms McLachlan has not been residing overnight in the Property for some time but has been returning there periodically. Mrs Saddiq said that she had obtained a Crime Reference Number from Police Scotland regarding alleged illegal activity, the growing of drugs, at the Property. She said that early in 2023 Mrs Stevenson thought that the Property had been abandoned by Ms McLachlan and, therefore, had changed the locks to the Property. Mrs Saddiq stated that Ms McLachlan then contacted the local authority and they liaised with Mrs Stevenson who had to supply Ms McLachlan with fresh keys for the Property. Mrs Saddiq stated that, in all the circumstances, she considered it reasonable that Mrs Stevenson be granted an order for eviction to recover possession of the Property on the principal Ground that there are substantial rent arrears of over 6 months owing by Ms McLachlan.

Findings in Fact and Law

6. The parties have a tenancy agreement which began on 1st August 2016. The monthly rent due is in the sum of £550.00.
7. Ms McLachlan was in substantial arrears of rent, of £3,545.00, on 18th May 2023, when Mrs Stevenson gave notice of her intention to raise proceedings to recover possession of the Property.
8. The principal Ground upon which the Application proceeds, namely Ground 8A in Schedule 5 to the 1988 Act, is satisfied. Ms McLachlan had rent arrears of £3545.00, an amount which exceeds the equivalent of 6 months;' rent due, when notice of intention to raise these proceedings was given to her.
9. The rent arrears are currently in the amount of £6,845.00. Ms McLachlan has not made any payment of rent since that notice was intimated to her.
10. Mrs Stevenson is elderly. She is terminally ill and requires to resolve her legal affairs as soon as possible.
11. It is reasonable that an order for possession is granted.

Reasons for Decision

12. Section 16 of the Housing (Scotland) Act 2014 provides as follows:

“16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

- (a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),
- (b) a Part VII contract (within the meaning of section 63 of that Act),
- (c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

13. Accordingly, the Tribunal now has jurisdiction in relation to claims by landlords, such as Mrs Stevenson, against tenants, such as Ms McLachlan, for possession relating to a tenancy agreement, such as the parties' tenancy agreement.
14. In terms of Section 18 of the 1988 Act the Tribunal shall not make an order for possession of the house let on the tenancy except on one or more of the grounds set out in Schedule 5 to the 1988 Act.
15. Ground 8A in Schedule 5 to the 1988 Act provides that it is an eviction ground that the tenant has accrued arrears of rent and the cumulative amount of those arrears equates to, or exceeds, the equivalent of 6 months' rent when Notice of

Intention to raise Proceedings is served or, if dispensed with, when proceedings are raised for an order for possession on this ground.

16. The Tribunal considered all of the Application papers and Mrs Saddiq's submissions. Having done so the Tribunal made the above findings in fact and law. The Tribunal found that the arrears of rent amounts referred to by Mrs Saddiq were consistent with the documentation lodged with the Application. They found that Mrs Sadiiq's submissions regarding the circumstances of the tenancy and Mrs Stevenson's poor health were also consistent with the terms of the Application papers. Ms McLachlan had not made any representations to the Tribunal in respect of the Application and had not attended at the CMD to contradict the terms the evidence in the Application papers and Mrs Saddiq's submissions.
17. Therefore, having considered and weighed the available evidence, and Mrs Saddiq's submissions, the Tribunal found, on a balance of probabilities, that there are substantial arrears of rent owing, currently in the sum of £6845.00. The Tribunal found that the outstanding rent owing has been in a cumulative amount exceeding the equivalent of 6 months' rent since notice was given to her regarding these proceedings. The Tribunal also found, on a balance of probabilities, that Mrs Stevenson is elderly and, unfortunately, has a terminal illness. They found that Mrs Stevenson reasonably requires to resolve her legal affairs, including the recovery of possession of the Property for which she has not been paid rent for many months, as a matter of priority.
18. Rule 17(4) of the 2017 Rules provides that the Tribunal may do anything at a CMD which it may do at a Hearing, including making a decision. Having considered and weighed the available evidence and submissions, the Tribunal was satisfied that Ground 8A in Schedule 5 to the 1988 Act was met and that it was reasonable that Ms McLachlan's occupation of the Property, without payment of rent to Mrs Stevenson, be brought to an end. Mrs Stevenson may now regulate her affairs in respect of the Property.

Decision

19. The Tribunal grants the Application.

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.



27th November 2023

Legal Member

Date