

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)**

Chamber Ref: FTS/HPC/EV/23/1304

Re: Property at 27 Glasgow Road, Wishaw, ML2 7PG (“the Property”)

Parties:

**Mr Kevin Timmons, 15 Duncryne Avenue, Mount Vernon, Glasgow, G32 0RJ
 (“the Applicant”)**

Mr David Ritchie, 27 Glasgow Road, Wishaw, ML2 7PG (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Janine Green (Ordinary Member)

Decision

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

BACKGROUND

1. By lease dated 10th March 2021 the applicant let the Property to the Respondent.
2. Rent was payable at £260.00 per calendar month.
3. The Respondent fell into arrears of rent. The Applicant, accordingly, took steps to secure recovery of possession of the Property.
4. A notice to leave was served upon the Respondent.
5. A notice in terms of Section 11 of the Homeless Etc. (Scotland) Act 2003 was intimated to the local authority.
6. It is noted that, in the application process, there were significant issues with the paperwork submitted to the Tribunal:-
 - The applications initially referred to the wrong Tribunal rules.
 - There was initially no proof of service of the Notice to Leave on the Respondent.

- There was no rent statement provided.
 - There was no proof of service of the s11 Notice upon the local authority.
 - The application was submitted on the part of one applicant, despite the Property being owned by two persons.
 - No rent statement was provided in relation to the application of payment to arrears.
7. Ultimately both applications were accepted by the Tribunal and a Case Management Discussion was assigned, in each case, to be conducted by teleconference at 2pm on 15th December 2023.

THE CASE MANAGEMENT DISCUSSIONS

8. The applicant was represented by Mr George Reynolds of Smart Move Estate Agents. The respondent participated personally.
9. Throughout the Case Management Discussions the attitude and demeanour of Mr Reynolds was less than would be expected of a person conducting proceedings before the Tribunal. He was disrespectful in his manner. He was dismissive of anything suggested with which he did not agree. He suggested that “this is not my first rodeo” while overlooking the significant defects in his applications and during the sifting process.
10. That being said, the Respondent advised that he was not opposed to the Applications. He accepted that there were arrears of rent. As at the date of the case management discussion those amount to £3,964.00. He indicated that he was willing to leave the Property and was content for an order for eviction to be granted.
11. In relation to the payment action, the Tribunal enquired as whether the Respondent wished the Tribunal to consider a time to pay direction. That was immediately objected to by Mr Reynolds who appeared unaware that the Tribunal required to consider a time to pay direction when a payment order was being made. Despite Mr Reynolds position that “this is not my first rodeo” he continued to protest at the Tribunal considering such a matter.
12. The Respondent was willing to make payment of not less than £500.00 per calendar month. Having regard to the fact that payment at that rate would enable the arrears of rent to be cleared within 8 months, Mr Reynolds initially objected to that but after further discussion, consented to a payment order in that amount.
13. In the circumstances, given the lack of opposition to either order being granted by the Respondent to either order being granted, The tribunal granted both an order for eviction and an order for payment in the sum of £3964.00. The tribunal also made a time to pay direction, payment to be made at the rate of £500.00 per calendar month.
14. The arrears of rent were substantial, exceeding 15 months’ worth of rental payments. In the circumstances, the provisions of the Cost of Living (Tenant Protection) (Scotland) Act 2022 did not apply to the eviction order.

DECISION

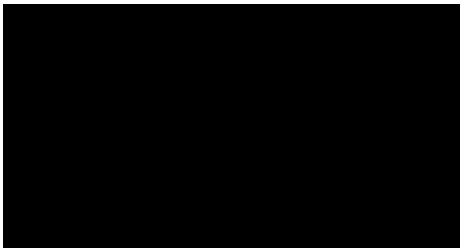
The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies)

(Scotland) Act 2016, under ground 12A of Schedule 3 of said Act (substantial rent arrears)

Order not to be enforced prior to 12 noon on 29th January 2024

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.



15 December 2023

Legal Member/Chair

Date