

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 51 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/23/2844

Re: Property at 53 Glamis Drive, Greenock, PA16 7JN (“the Property”)

Parties:

McTaggart and Disselduff Ltd, 9 Duff Street, Greenock, PA15 1DB (“the Applicant”) and

Red Roof Rentals Ltd, 9 Duff Street, Greenock, PA15 1DB (“the Applicant’s Representative”) and

Mr Chris Sinclair, r53 Glamis Drive, Greenock, PA16 7JN (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

G Laurie - Ordinary Member

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines as follows:

Background

1. This Application was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The Applicant’s Representative had provided the Tribunal, in the Application, with copies of the parties’ Private Residential Tenancy Agreement (“the PRT”),

the Notice to Leave served on the Respondent and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to Inverclyde Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied.

3. The Application papers and Guidance Notes had been served by depositing them in the hands of the Respondent Mr Sinclair's brother Mr R Sinclair by Sheriff Officers on 27th December 2023.
4. Mr Sinclair had not lodged any representations in respect of the Application.

Case Management Discussion

5. A Case Management Discussion ("CMD") proceeded by remote teleconference call on 15th February 2024. The Applicant's Representative's Ms McTaggart and Mr Disselduff attended. Mr Sinclair did not attend and was not represented.
6. Ms McTaggart stated that the Applicant company McTaggart and Disselduff Ltd has 7 rental properties. She said that the company's properties, as well as other properties owned individually by her and Mr Disselduff, were all let through their letting company, the Representative Red Roof Rentals Ltd. She referred to the Application and to the subsequent written representations which she had sent to the Tribunal's Office, showing rent arrears now owing of £6,770.00. Ms McTaggart stated that neither the company nor the Representative had heard from Mr Sinclair following his e-mail of 11th July 2023 when he agreed to a repayment plan commencing on 28th July 2023. She said that Mr Sinclair did not make payment on 28th July 2023 and no rent has been paid since 3rd March 2023, when Mr Sinclair's mother Mrs M Sinclair made a payment on his behalf. Ms McTaggart stated that she understood that Mr Sinclair was still living in the Property as he had been seen by neighbours. She stated that in her understanding, Mr Sinclair has been separated from his former partner since before the commencement of the parties' tenancy agreement, in September 2022, and he has contact with his two children from that relationship who may be aged 5 and 7. The Tribunal informed Ms McTaggart that the Application papers, and notification of today's CMD, were served by Sheriff Officers in the hands of Mr Sinclair's brother Mr R. Sinclair. Ms McTaggart said that she does not know Mr Sinclair's brother and was not aware that he was residing at the Property, which has two bedrooms. Ms McTaggart submitted that it was unsustainable for the Applicant company to continue with the situation whereby they have not received payment of any rent since March 2023, the arrears are now £6,770.00, and the tenant Mr Sinclair has not engaged with them since July last year when he failed to adhere to a payment plan. Ms McTaggart submitted that as no rent had been paid by Mr Sinclair for almost a year, and no communications had been received from him since July 2023, and as he had not made any representations before or at the CMD, it was fair and reasonable for an eviction order to be granted. Ms McTaggart acknowledged that as the Application proceeded under Ground 12 in Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") any eviction order

granted cannot be enforced for a period of 6 months, or on an earlier date if there is any alteration to the provisions of the Cost of Living (Tenant Protection) (Scotland) Act 2022.

Findings in Fact and Law and Reasons for Decision

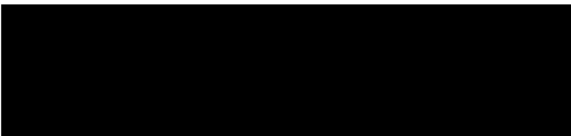
7. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
8. Schedule 3 (12) (1) to the 2016 Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
9. The Tribunal considered all of the Application papers, including the PRT, Notice to Leave and Rent Statement lodged by the Representative, as well as the submissions of Ms McTaggart.
10. The Respondent Mr Sinclair had not lodged representations with the Tribunal regarding the reasonableness of the grant of an eviction order or attended the CMD to provide any evidence, and/or make any submission, to oppose, and contradict the basis for the order sought by the Applicant.
11. Having considered all of the evidence and Ms McTaggart's submission, the Tribunal finds in fact that the Respondent had been in rent arrears for three or more consecutive months at the date of the Application, and is now in arrears of £6,770.00 at the present date. The Tribunal finds in law that the ground in Schedule 3 (12) (1) of the 2016 Act is met and determines that it is reasonable that an eviction order be granted.

Decision

12. The Tribunal therefore makes an eviction order as sought in this 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.



Tribunal Legal Member

15th February 2024
Date