



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 19 of the Housing (Scotland) Act 1988**

**Chamber Ref: FTS/HPC/EV/23/4677**

**Re: Property at Flat 1/1, 35 Cromwell Street, Glasgow, G20 6UN (“the Property”)**

**Parties:**

**Richmond Fellowship Scotland Limited, 3 Buchanan Gate Business Park, Cumbernauld, Stepps, North Lanarkshire (“the Applicant”)**

**Mr Shahid Rafiq, Flat 1/1, 35 Cromwell Street, Glasgow, G20 6UN (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Ms S Brydon (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession should be granted.**

**Background**

1. This is a Rule 65 application whereby the Applicant is seeking an order for possession of the Property, under grounds 15 and 16 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The application was received on 22 December 2023 and accepted by the Tribunal on 31<sup>st</sup> January 2024. The Applicant representative lodged a copy of a short assured tenancy that commenced on 1<sup>st</sup> August 2017 until 1<sup>st</sup> February 2018 and by tacit relocation thereafter, together with copy Notice to Quit and Form AT6 with evidence of service, section 11 notice with evidence of service, and evidence to support the grounds of possession.
2. The application and notification of a forthcoming Case Management Discussion was made by Sheriff Officers by personal service upon the Respondent at the Property on 18<sup>th</sup> March 2024.
3. By email dated 9<sup>th</sup> April 2024, the Applicant representative lodged a second Inventory of Productions and written representations. The representations stated that the Respondent was now in HMP Barlinnie. The Housing and

Property Chamber administration attempted service of the representations and productions upon the Respondent by Sheriff Officer without success.

### **The Case Management Discussion**

4. A Case Management Discussion (“CMD”) took place by telephone conference on 24<sup>th</sup> April 2024. Neither party was in attendance. The Applicant was represented by Ms Lucy Dunlop, Solicitor.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied in respect of the Respondent. The Tribunal took into account that the Respondent is currently incarcerated, however, notification of the application and CMD had been made upon the Respondent by personal service prior to his incarceration, and there was no reason to believe that legal representation or participation by telephone conference would not have been available to the Respondent despite his current circumstances. The Tribunal considered it was appropriate to proceed with the application in the absence of the Respondent.
6. Ms Dunlop confirmed that she had served the Second Inventory of Productions on the Respondent at HMP Barlinnie by Recorded Delivery, and this had been signed for.
7. Ms Dunlop referred to the evidence of anti-social behaviour contained within the application file and Second Inventory of Productions. Production 8 details antisocial behaviour issues by the Respondent over a period of a couple of years, and it was on the basis of this behaviour that the application was made. The Respondent is currently incarcerated after wilfully setting fire to lounge furniture within the Property on 22<sup>nd</sup> March 2024, following a disagreement with a staff member. The Respondent is prohibited from returning to the Property and the street on which it is situated as a result of an interim interdict granted by the Sheriff Court on 27<sup>th</sup> March 2024 following an application by the Applicant.
8. The Applicant is a charity providing social care services and supporting people with a broad range of additional support needs to live as independently as possible in their homes and communities. The Property is situated within a block of ten flats. It is staffed day and night. All the residents, including the Respondent, are considered vulnerable and have varying support needs. Many of the residents suffer from long-term mental health and other issues. They are supported in living and other activities, and have contact with a wide range of professionals. Ms Dunlop said there is a long list of people who would benefit from the supported accommodation available in the Property.
9. The Respondent suffers from mental health issues. He is supported by the Applicant’s staff and has input from a social worker, mental health officer, community psychiatric nurse, a homelessness social worker, a psychiatrist and a commissioning officer.

10. The Respondent's behaviour has deteriorated in recent months. This has included asking residents for money and belongings, knocking excessively on other residents' doors, shouting and swearing, banging and kicking doors, urinating in a public space, breaking a window, and shouting names at another resident. The Respondent has been verbally aggressive to staff, and has threatened self-harm.
11. Responding to questions from the Tribunal, Ms Dunlop said the Respondent has capacity. He is not in employment. He has mental health issues and behavioural problems. There is anecdotal evidence that the Respondent has stated he realises he has burned his bridges and wishes to move from the Property. He has been made aware through the interdict action that he is not welcome and is, indeed, prohibited from returning to the Property or the street. The Applicant believes the Respondent's behaviour will not improve if he continues to reside at the Property, and there may be issues between himself and staff members.

### **Findings in Fact and Law**

12.

- (i) Parties entered into a short assured tenancy commencing on 1<sup>st</sup> August 2017 to 1<sup>st</sup> February 2018 and continuing by tacit relocation thereafter.
- (ii) The Applicant has served Notice to Quit and Form AT6 upon the Respondent.
- (iii) The contractual tenancy ended on 1<sup>st</sup> November 2023.
- (iv) The Applicant is a charity providing social care services and supporting people with a broad range of additional support needs to live as independently as possible in their homes and communities.
- (v) The Respondent has mental health issues and is vulnerable.
- (vi) The Property is situated within a block of ten flats, all housing vulnerable residents.
- (vii) The Respondent receives support from the Applicant's staff and other social work and medical professionals.
- (viii) In or around December 2023, the Respondent acted in an anti-social manner in relation to persons residing at and engaging in lawful activity in the locality including by repeatedly kicking doors, banging on doors, breaking a door, asking for money, shouting and screaming, behaving aggressively towards other residents and staff, and urinating in public.

- (ix) The condition of furniture provided to the Respondent under the tenancy has deteriorated owing to ill-treatment by the Respondent and other people visiting him.
- (x) On 22<sup>nd</sup> March 2024, the Respondent wilfully set fire to furniture within the Property, causing extensive damage in the Property and smoke damage throughout the block of flats. As a result of the fire all residents and staff had to be evacuated and the fire damage to the Property meant it was left uninhabitable.
- (xi) On 27<sup>th</sup> March 2024, at Glasgow Sheriff Court, an interim interdict was granted to interdict the Respondent from entering Cromwell Street, Glasgow and from approaching, entering, or attempting to reoccupy the Property.
- (xii) The Respondent is currently incarcerated at HMP Barlinnie.
- (xiii) The Respondent's actions have caused fear and alarm to other vulnerable residents of the block of flats in which the Property is situated.
- (xiv) The Respondent is being supported by a Social Worker to find suitable alternative accommodation.
- (xv) It is reasonable to grant an order for possession.

### **Reasons for Decision**

13. Ground 15 of schedule 5 to the 1988 Act is met if the tenant, a person residing or lodging in the house with the tenant or a person visiting the house has— (b) acted in an anti-social manner in relation to a person residing, visiting or otherwise engaging in lawful activity in the locality; or (c) pursued a course of anti-social conduct in relation to such a person as is mentioned in head (b) above.
14. Ground 16 is met if the condition of any furniture provided for use under the tenancy has deteriorated owing to ill-treatment by the tenant or any other person residing or lodging with him in the house and, in the case of ill-treatment by a person lodging with the tenant or by a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.
15. The Tribunal was satisfied that both grounds were met. The Tribunal had regard to the oral and written submissions of the Applicant representative. The Tribunal took into account the submission that the Respondent's behaviour has deteriorated in the past couple of years, worsening in or around December 2023 and culminating in the fire-raising incident in March 2024 for which the Respondent is now incarcerated. The Tribunal took account the

Severity Charts submitted by the Applicant's staff that detail significant incidents of anti-social behaviour and wilful damage to the Property and its contents. The Charts also detail a high level of support given to the Respondent to attempt to assist him in dealing with his issues.

16. The Tribunal took into account the Respondent's vulnerabilities and was concerned that he may have difficulty in being rehomed if he cannot sustain a supported tenancy in a supportive environment while housed by the Applicant. The Tribunal noted that the Respondent is being supported by a social worker in an attempt to find alternative housing.
17. The Tribunal took into account the fact that other vulnerable residents are being significantly impacted by the anti-social behaviour of the Respondent and his visitors. There was no information before the Tribunal that would suggest that any further intervention to assist the Respondent to retain his tenancy would be successful, as it was clear that the Applicant's staff and other professionals have tried to work with the Respondent to address his behaviour. The other residents have experienced fear and alarm at the Respondent's behaviour, and, particularly, at the recent fire-raising incident, which left the Property uninhabitable. There did not seem to be any prospect of the Respondent addressing his issues and returning to the Property. The tenancy would appear to be unsustainable, as intervention by the Applicant's staff and other social work and medical professionals has not helped the Respondent to desist from anti-social behaviour.
18. The Applicant's staff and the other residents of the block of flats are entitled to work and live in peace and without fear of further anti-social behaviour by the Respondent, including behaviour that has the potential to lead to loss of life. The Applicant is entitled to expect tenants not to damage the Property and furniture items therein.
19. Having weighed all the circumstances, the Tribunal considered it was reasonable to grant the order for possession.

## **Decision**

20. An order for possession of the Property is granted in favour of the Applicant.

## **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.**

H. Forbes

**Legal Member/Chair**

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**24<sup>th</sup> April 2024**  
**Date**