



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”)**

**Chamber Ref: FTS/HPC/EV/23/4626**

**Re: Property at 2/2 79 Cornalee Gardens Pollok, Glasgow Lanarkshire, G53 7EW (“the Property”)**

**Parties:**

**Mr Saad Saeed, 1181 Howe Road, Kamloops British Columbia, Canada, V1S 1M4, Canada (“the Applicant”)**

**Ms Katie Cliff, 2/2 79 Cornalee Gardens, Pollok, Glasgow Lanarkshire, G53 7EW (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Mrs F Wood (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 eviction should be granted against the Respondent.**

**Background**

1. This is a Rule 109 application received in the period between 20th December 2023 and 7th March 2024. The Applicant is seeking an eviction order. The Applicant lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 29th November 2019 at a monthly rent of £480. The rent was increased to £515 in January 2022. The Applicant lodged a rent statement showing arrears in the sum of £3090, a copy Notice to Leave with evidence of service, copy section 11 notice with evidence of service, and pre-action requirement correspondence.
2. Notification of a Case Management Discussion (“CMD”) was made upon the Applicant by emailed letter dated 11th June 2024.
3. Notification of the CMD was made upon the Respondent by Sheriff Officer on 12th June 2024.

4. By email dated 22nd June 2024, the Applicant lodged an updated rent statement showing arrears in the sum of £6185.66.
5. By email dated 27th June 2024, the Applicant lodged an application to amend the sum sought to £6500.
6. A CMD took place by telephone conference on 17th July 2024. Neither party was in attendance. Attempts by the Tribunal Clerk to call both parties were unsuccessful. The Tribunal was concerned that the Applicant's failure to attend may be due to the fact that he resides in Canada. The Tribunal decided to adjourn the CMD to further CMD to allow parties to participate. Thereafter, the Tribunal was informed that the Applicant had attempted to join the telephone conference unsuccessfully.
7. Notification of a further CMD was made upon the Respondent by Recorded Delivery letter, which was received and signed for on 3rd August 2024.

### **The Case Management Discussion**

8. A CMD took place by telephone conference on 22nd August 2024. The Applicant was in attendance. The Respondent was not in attendance.
9. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
10. The Applicant said the Respondent stopped paying rent in June 2023 and has paid no rent since that time. The sum outstanding is now £7015. The Applicant said he is now unemployed. He has two sons. He has a mortgage on his main residence and the interest on his mortgage has increased. In the absence of rental payments for the Property, he has to pay for the upkeep of the Property and all associated costs. The situation is causing him tension and stress.
11. Responding to questions from the Tribunal, the Applicant said the Respondent lives alone in the two-bedroom property with no dependants. It was his understanding that she lost her job last June 2023, at which time she informed the letting agent she was looking for another job. The letting agent was in touch with the Respondent every month to discuss the rent arrears, but the Respondent is now avoiding the letting agent. The Applicant said the Respondent had previously informed the letting agent that she would not be paying any rent as she required the money for a downpayment on another property.

## Findings in Fact and Law

12.

- (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 29th November 2019 at a monthly rent of £480.
- (ii) The rent was increased to £515 in January 2022.
- (iii) The Applicant has served a Notice to Leave upon the Respondent.
- (iv) The Respondent has accrued rent arrears.
- (v) The Respondent has been in rent arrears for three or more consecutive months.
- (vi) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
- (vii) The Applicant has complied with the pre-action protocol.
- (viii) It is reasonable to grant an eviction order.

## Reasons for Decision

13. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if for three or more consecutive months the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that Ground 12 has been established. There was no information before the Tribunal to indicate that the Respondent being in rent arrears was as a result of a delay or failure in the payment of a relevant benefit.
14. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
15. The Applicant is entitled to rent lawfully due in terms of the tenancy agreement. The Respondent has failed to make payment of rent for some time, despite the efforts of the letting agent to discuss matters with the Respondent. The arrears are substantial. The Applicant has complied with the pre-action protocol. The Applicant has been affected by the non-payment of rent. He is having to pay for the upkeep of the Property, and associated costs, at a time when he is unemployed. The situation is causing him tension and stress.
16. There is limited information available about the Respondent's circumstances. The Respondent has chosen not to engage with the Tribunal despite being notified of two CMDs. The Tribunal considered the fact that an eviction order

may render the Respondent homeless, however, there was no evidence from the Respondent as to her prospects for securing alternative accommodation or, indeed, any representations as to her position in respect of the application.

17. In all the circumstances, the Tribunal considered that a prima facie case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend or make representations to put material before the Tribunal to indicate why an order should not be granted, and the Respondent has failed to do so. The Tribunal considered it was reasonable to grant the order sought.

## **Decision**

18. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 24th September 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.**

# H. Forbes

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**Legal Member**

**22nd August 2024**  
**Date**