

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/24/1353

Re: Property at 21 Gour Place, Glasgow, G69 8FX (“the Property”)

Parties:

**Sanctuary Homes (Scotland) Limited, 7 Freeland Drive, Glasgow, G53 6PG
 (“the Applicant”)**

Mr Kevin Hyland, 21 Gour Place, Glasgow, G69 8FX (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Respondent)

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

FACTUAL BACKGROUND

1. By Lease dated 27th May 2021, the Applicant let the Property to the Respondent.
2. Rent was payable at the rate of £462.30 per month. As a result of lawful rent increases, rent was increased to £497.31 per month.
3. The Respondent fell into arrears of rent. The Applicant corresponded with the Respondent on numerous occasions in relation to the arrears with a view to discussing matters and any difficulties the Respondent may be experiencing. The Respondent did not engage with the Applicant.
4. A notice to leave was served upon the Respondent intimating that proceedings would be raised with a view to seeking recovery of possession of the Property.
5. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2023 was intimated to the local authority.

6. The Applicant presented two separate applications to the Tribunal, one seeking an order for payment of rent arrears (CV/24/1352) and one seeking an order for eviction (EV/24/1353)
7. Prior to the Case Management Discussion an updated rent statement was provided showing the arrears to have increased to £8,909.22 and seeking an amendment of the sum claimed in the payment action to that amount.

THE CASE MANAGEMENT DISCUSSION

8. The Applicant was represented at the Case Management Discussion by Miss Preece of Messrs Harper McLeod LLP. Mr Campbell, an officer of the Applicant, also participated to provide additional information if required. The Respondent did not participate in the Case Management Discussion. The Tribunal, however, was in receipt of a certificate of intimation by Sheriff Officers confirming that the proceedings had been intimated upon the Respondent. In the circumstances, the Tribunal was satisfied in terms of Rule 24 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the FTT Regs”) that the respondent had received intimation of the date and time of the Case Management Discussion and considered that it was appropriate to proceed with the Case Management Discussion in the absence of the Respondent in accordance with Rule 29 of the FTT regs
9. Miss Preece confirmed that her client wished both an order for payment and an order for eviction.

Rent Arrears

10. In relation to the payment action, an up to date rent statement was provided showing the arrears now amounted to £8,909.22. The Tribunal was advised no payments have been made since July 2023. The Applicant has attempted to engage with the Respondent to discuss the issues of rent arrears but without success. The last time the Respondent engaged with the Applicant was as far back as August 2023. Since then, there have been various attempts to contact the Respondent, by various means, without success.
11. The lease provides for interest upon late payments of rent at the rate of 4% per annum above RBS Bank base rate. As at the date of the Case Management Discussion RBS base rate is 5% per annum. Miss Preece confirmed, however, that the application requested interest at a rate of 8% per annum, being the usual judicial rate of interest applied to financial payment orders. Although that was 1% below the interest rate authorised in terms of the lease, Miss Preece confirmed she wished interest at 8%.
12. In the absence of an appearance, or any representations having been made by the Respondent prior to the Case Management Discussion, the Tribunal granted a request to amend the amount claimed to reflect the up to date arrears, that being £8,909.22. Thereafter, the Tribunal granted a payment order in that amount with interest thereon at a rate of 8% per cent per annum.

Eviction

13. In relation to an eviction order, clearly, there are significant arrears of rent. The Tribunal, however, still requires to consider whether it is reasonable to grant an eviction order.
14. Mr Campbell, on behalf of the Applicant, confirmed that the Respondent is 39 years of age. He is single. He is the sole occupant of the Property. He has no known vulnerabilities nor medical issues. As indicated, the Respondent has not engaged with the Applicant since August 2023.
15. Having regard to the significant level of rent arrears, the refusal, or failure, of the Respondent to engage with the Applicant and the absence of any opposition, the tribunal determined that it was reasonable and appropriate to grant an order for eviction.

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 12 of Schedule 3 to said Act

Order not to be executed prior to 12 noon on 2 October 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.

V Crawford

26 August 2024

Legal Member/Chair

Date