



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for eviction/ possession of a Rented Property in terms of Rule 109 of the Procedure Rules.

Chamber Ref: FTS/HPC/EV/24/2339

Re: Flat 0/1, 260 Stevenson Street, Glasgow, G40 2RU ('the Property')

Parties:

Ragbir Ram residing at 1491 Dumbarton Road, Glasgow, G14 9XL ('the Applicant')

Guardian Letting & Sales (The Applicant's Representative')

Andrew Murdoch residing at Flat 0/1, 260 Stevenson Street, Glasgow, G40 2RU ('the Respondent')

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')

Tribunal Members: Jacqui Taylor (Legal Member) and Helen Barclay (Ordinary Member)

1. Background

1.1. The Applicant submitted an application to the Tribunal for eviction/ possession of the Rented Property under section 51(1) of the Private Housing Tenancies (Scotland) Act 2016, in terms of Rule 109 of the Procedure Rules.

1.2 The application was dated 22nd May 2024. The application stated that the ground for eviction was as follows:

'Ground 12: The Respondent is in arrears of more than three consecutive . The tenant has failed to pay his rent since November 2023 and currently owes £3000 in rent arrears.'

1.3 Documents lodged with the Tribunal were:-

- Private Residential Tenancy Agreement between the parties dated 2nd March 2023.

- A rent statement for the period 2nd March 2023 to 2nd May 2024 showing arrears of £3000.
- Notice to Leave dated 13th February 2024 advising the Respondent that an application for an eviction order on the ground that there has been rent arrears over three consecutive months will not be submitted to the Tribunal before 4th May 2024.
- Certificate of Service by Andrew Fraser, Sheriff Officer dated 13th February 2024 confirming that the Notice to Leave was served on the Respondent on 13th February 2024.
- Section 11 Notice addressed to Glasgow City Council.
- Email to Glasgow City Council dated 20th May 2024 attaching the section 11 Notice.
- Copies of Pre action letters sent to the Respondent dated 2nd January 2024, 2nd February 2024 and 2nd March 2024.

2. By Notice of Acceptance by Ruth O'Hare, Convener of the Tribunal, dated 3rd June 2024 she intimated that she had decided to refer the application (which application paperwork comprises documents received on 22nd May 2024) to a Tribunal.

3. The Respondent did not provide any written representations.

4. Case Management Discussion

4.1 This case called for a conference call Case management Discussion (CMD) at 14.00 on 9th August 2024.

The Applicant's Representative Stewart Girdwood, Director of Guardian Letting & sales attended.

The Respondent did not attend and was not represented. The clerk telephoned the Respondent but he did not answer the call.

The Respondent had been served with a letter advising him of the CMD by Stuart Sinclair, Sheriff Officer on 4th July 2024. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

4.2 Oral Submissions.

Mr Girdwood explained that the Respondent has not made any rent payments since November 2023. The rent arrears are currently £4350. As far as he is aware the Respondent still resides in the Property. He is employed full time at a Brewery in Glasgow. The rent arrears are not due to a delay in paying benefits. He refuses to communicate with the Applicant's agents. He considers that it is reasonable for the eviction to be granted due to the level of rent arrears.

5. Decision

5.1. Requirements of Section 109 of the Procedure Rules.

5.1.1 The Tribunal confirmed that the application correctly detailed the requirements of section 109(a) of the Procedure Rules namely:-

- (i) the name, address and registration number of the Landlord.
- (ii) the name and address of the Landlord's representative.

(iii) the name and address of the Tenant.

(iv) the ground of eviction. The ground stated in the application is that the tenant is in rent arrears over three consecutive months.

The Tribunal accepted that this is Ground 12 of Schedule 3 of the 2016 Act.

5.1.2 The Tribunal confirmed that the application complied with the requirements of Section 109(b) of the Procedure Rules:

(i) evidence showing that the eviction ground or grounds had been met.

The required rent statement had been provided showing rent arrears over three consecutive months.

(ii) a copy of the notice to leave given to the Tenant as required by section 52(3) of the 2016 Act.

The Tribunal confirmed that the Notice to Leave was in correct form as set out in Schedule 5 of the Private Residential Tenancies Notices and Forms (Scotland) Regulations 2017.

The Notices to Leave was dated 13th February 2024 and advised the Tenant that the Applicant intends to apply to the Tribunal for an eviction order in respect of the property on the basis of Ground 12 (The Tenant is in rent arrears over three consecutive months). It also advised that an application would not be submitted to the Tribunal for an eviction order before 5th May 2024.

The Tenancy commenced on 2nd March 2023.

As at 13th February 2024 (the date of the Notice to Leave) the Tenant had resided in the property for more than six months.

The application for eviction was based on Ground 12 of Schedule 1 of the 2016 Act and therefore twenty eight days notice was required.

The Landlord served the Notice to Leave on the Tenants on by sheriff officer and correctly gave the Tenants a minimum of twenty eight days notice.

(iii) a copy of the notice given to the local authority as required by Section 56(1) of the 2016 Act.

The Tribunal confirmed that a copy of the required notice had been provided.

5.1.3 The Tribunal confirmed that the application form had been correctly signed and dated by the Landlords' representatives as required by Section 109(c) of the Procedure Rules.

5.2 The Tribunal made the following findings in fact:

5.2.1 The Respondent is Tenant of the Property in terms of the lease between the parties. The start date of the Tenancy detailed in the lease was 2nd March 2023.

5.2.2 Applicant is heritable proprietor and Landlord of the Property. The Tribunal had a copy of the Applicant's title deeds being Land Certificate GLA152236.

5.2.3. The lease is a Private Residential Tenancy in terms of the Private Housing Tenancies (Scotland) Act 2016 ('The 2016 Act').

5.2.4 The rent detailed in the tenancy agreement was £450 per calendar month, payable in advance.

5.2.6 The Notice to Leave was dated 13th February 2024 and it was served on the Respondent by Sheriff Officer on 13th February 2024.

5.2.7 The Notice to Leave stated that the Respondent was in rent arrears over three consecutive months, which is Ground 12 of Schedule 3 of the Private Housing (Tenancies) Scotland Act 2016.

5.2.8 The rent account has been in arrears since November 2023.

5.2.9 The current rent arrears amount to £4350.

5.2.9 The rent arrears were not due to the delay or failure in the payment of a benefit.

5.2.10 The Landlord's representatives had sent the Respondent pre action letters dated 2nd January 2024, 2nd February 2024 and 2nd March 2024.

5.3 In relation to the requirements of Ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal found as follows:

5.3.1. The Tribunal accepted the oral submission of Mr Girdwood that the Respondent has not made any rent payments since November 2023.

5.3.2 The Tribunal determined that the Respondent had been in arrears of rent for three or more months at the date of the Notice to Leave, the date of the Application to the Tribunal and at today's date.

5.3.3 The Tribunal found that the rent arrears were not due to a delay or failure in payment of a relevant benefit.

5.3.4 The Tribunal found that it was reasonable for the eviction order to be granted for the following reasons:

5.3.3.1 The considerable amount of the rent arrears owing.

5.3.3.2 The fact that the Applicant had issued preaction letters to the Respondent.

5.4 The Tribunal found in law that the ground in Schedule 3(12)(1) of the 2016 Act was met.

5.5 The Tribunal granted the eviction but determined that the Order should not to be executed prior to 12 noon on 10th September 2024.

6. 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.

J. Taylor

Legal Member

9th August 2024