



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

**Chamber Ref: FTS/HPC/EV/24/1245**

**Re: Property at 18B Glenacre Road, Cumbernauld, G67 2NZ (“the Property”)**

**Parties:**

**Sunshine Housing Limited, Suite 1.9 Red Tree Magenta, 270 Glasgow, Rutherglen, Glasgow, G73 1UZ (“the Applicant”)**

**Mr Leo McDade, 18B Glenacre Road, Cumbernauld, G67 2NZ (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (Legal Member) and Gordon Laurie (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.**

**Background**

This is an application under Rule 109 and section 51(1) of the Act for eviction and recovery of possession on Ground 12A of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application dated 13 March 2024;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 8 February 2023;
3. Notice to Leave dated and served by email on 12 January 2024;
4. Section 11 Notice to Local Authority served by email on 13 March 2024;
5. Rent Arrears Statement;
6. Pre Action Letters;

7. Certificate of Service of Tribunal CMD Notification on the Respondent by Sheriff Officers dated 8 August 2024.

### **Case Management Discussion (CMD)**

The case called for a CMD by conference call on 10 September 2024. The Applicant did not participate but was represented by its Letting Agent. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate but he did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that he should attend and the Tribunal could determine the matter in absence if he did not.

The Applicants' Representative confirmed that the amount of arrears had increased to £8,046.33. The Respondent is a single man with no dependents in the Property. He had been in receipt of housing benefit but this appeared to have ceased or at least he had not passed this on to the Applicant.

The Applicant's Representative was only aware of one Property that the Applicant owned and rented with them.

The Applicant's Representative submitted that it was reasonable to grant the eviction order.

The Tribunal had regard to Ground 12 A of Schedule 3 to the Act which provides:

#### *Rent arrears*

*12A(1)It is an eviction ground that the tenant has substantial rent arrears.*

*(2)The First-tier Tribunal may find that the ground named by [sub-paragraph \(1\)](#) applies if—*

*(a)the tenant has accrued rent arrears under the tenancy in respect of one or more periods,*

*(b)the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy when notice to leave is given to the tenant on this ground in accordance with section 52(3), and*

*(c)the Tribunal is satisfied that it is reasonable to issue an eviction order.*

*(3)In deciding under [sub-paragraph \(2\)](#) whether it is reasonable to issue an eviction order, the Tribunal is to consider—*

*(a)whether the tenant being in arrears of rent over the period or periods in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit,*

*(b)the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers under paragraph 12(4)(b) (and continued in force by virtue of section 49 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022).*

*(4)For the purpose of this paragraph—*

*(a)references to a relevant benefit are to—*

*(i)a rent allowance or rent rebate under the Housing Benefit Regulations 2006 ([S.I. 2006/213](#)),*

*(ii)a payment on account awarded under regulation 93 of those Regulations,*

*(iii)universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,*

*(iv)sums payable by virtue of section 73 of the Education (Scotland) Act 1980,*

*(b)references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.*

The Tribunal then considered the documentary evidence it had received and the submissions made. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 8 February 2023;
2. The monthly rent was £495;
3. Notice to Leave had been served on the Respondent on 12 January 2024;
4. As at the date of service of the Notice to Leave the Respondent was in arrears of rent in the sum of £4,086.33 which sum was in excess of 6 months rent;
5. As at the date of the CMD the Respondent was in arrears of rent in the sum of £8,046.33;
6. The rental arrears were not due to any delay or failure in the payment of a relevant benefit;
7. Section 11 notification had been served on the local authority;
8. The Respondent is a single man with no dependents in the Property;
9. The Applicant is a limited company with only this Property for rent to the knowledge of its Letting Agent;
10. It was reasonable to issue an eviction order in the circumstances.

The Tribunal was satisfied that Ground 12A had been established and it was reasonable to grant the application for eviction and recovery of possession given the significant rent arrears which continued to increase.

## **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland**

**(Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**

**Alan Strain**

**10 September 2024**

---

**Legal Member/Chair**

---

**Date**