



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/24/1421

Re: Property at 184 Menzies Road, Glasgow, G21 3ND (“the Property”)

Parties:

**Mr Derek Magill, Mrs Jane Magill, 48 Whiteford Road, Stepps, Glasgow, G33 6BG
 (“the Applicant”)**

Elizabeth Riach, 184 Menzies Road, Glasgow, G21 3ND (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

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

BACKGROUND

1. By lease dated 13 November 2019 the Applicants let the Property to the Respondent.
2. Rent was payable at the rate of £550.00 per calendar month. The Respondent, however, stopped making payment of rent during 2020 and, apart from a payment of £300.00 on 31 May 2021, no payments of rent have been made since July 2020.
3. A Notice to Leave was served upon the Respondent on 13 December 2023.
4. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.

5. The Tribunal previously granted an order against the Respondent for payment of £24,200.00 to the Applicants in relation to rent arrears, that order having been granted on 22 November 2023 under Tribunal Case Reference CV/23/0944.
6. Since then, further arrears in the sum of £6,050.00 have accrued.
7. The Applicants presented an Application to the Tribunal seeking an order for payment of rent arrears (Tribunal Ref CV/24/1420) and an order for eviction (Tribunal Ref EV/24/1421).

THE CASE MANAGEMENT DISCUSSION

8. Both cases called at a Case Management Discussion at 2pm on 14 October 2024. The First Named Applicant, Derek McGill, participated in the Case Management Discussion. The Applicants were represented by Miss E Hamilton of Clarity Simplicity Limited Solicitors. 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. While the Respondent did not participate, the Tribunal did enquire as far as possible, in relation to her personal circumstances. Both Miss Hamilton and Mr McGill, however, had some difficulty in providing up to date information due to a significant lack of engagement by the Respondent with the Applicants. The information available was as follows:-
 - Mr McGill believes that the Respondent may have a child but he is not certain. If she does, he does not know if the child lives at the Property. He did, however, see a child at the property about 3 years ago and at that time the child was approximately 8 years old.
 - The Applicant tried to contact the Respondent recently in relation to making arrangements to have the boiler at the property serviced. There was no engagement by the Respondent. That appeared to be the case even though it seems she was within the Property at the time the Applicants attended.
 - The last time there was engagement with the Respondent was approximately one and a half years ago, again, when there was discussion about the boiler being serviced.
 - No rent payments have been made for in excess of 4 years.
 - There are no known medical issues affecting the Respondent.
 - No reason is known as to why rent has not been paid. It was pointed out by Miss Hamilton that rental payments stopped during 2020, at a time when the country was in lockdown due to the

COVID pandemic. Since then, however, there have been no payments made with no explanation being provided, despite attempts at engagement with the Respondent.

- There are no known issues in relation to benefit payments.
- The Respondent is still occupying the Property.

10. Having regard to the extremely long period during which rent has not been paid, the significant arrears outstanding – now in excess of £30,000.00 in total – and the failure of the Respondent to lodge any submissions with the Tribunal nor attend at the Case Management Discussion, the Tribunal concluded that it was reasonable and appropriate that both an order for payment of the balance of rent arrears which had accrued since the previous Tribunal payment order, that being £6,050.00, be made and, separately, that an order for eviction be made.

11. The Applicants sought interest on the payment order at a rate of 8% per annum. The original application to the Tribunal did not request interest on any payment order and there was no lease available to the Tribunal and, therefore, it could not be ascertained if there was a contractual right to interest. In the circumstances, the Tribunal made no order for interest on the payment order granted.

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 and 12A of schedule 3 to said Act.

Order not to be executed prior to 12 noon on 20 November 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.

Virgil Crawford

14 October 2024

Legal Member/Chair

Date

