



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

**Chamber Ref: FTS/HPC/EV/24/2036**

**Re: Property at 73 Glen Esk, East Kilbride, Glasgow, G74 3UR ("the Property")**

**Parties:**

**Mr Graeme Edgar of 2 Broadlees Gardens, Chapelton, Strathaven, ML10 6SN, Mr Stuart Edgar of The Stables, East Browncastle, Strathaven, ML10 6QW and Mr Keith Edgar of 7 Tak Me Doon Road, Larbert, FK5 4GY ("the Applicants")**

**Mr Kris Revill, 73 Glen Esk, East Kilbride, Glasgow, G74 3UR ("the Respondent")**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Ann Moore (Ordinary Member)**

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

At the Case Management Discussion ("CMD"), which took place by telephone conference on 10 December 2024, the First Applicant was in attendance and was represented by Mr Adam Gardiner of Lindsays. Ms Sarah Gallagher of Let Property Management was also in attendance as an observer. The Respondent was neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

The CMD took place in respect of this application and the related application bearing reference FTS/HPC/CV/24/2037.

Prior to the CMD the Tribunal had received from Mr Gardiner emails dated 26 November and 2 December 2024 with attachments.

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

**Background**

- i. The Applicants are the heritable proprietors of the Property.

- ii. The Applicants leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 4 June 2021
- iii. The rent payable in terms of the PRT is £425 per calendar month.
- iv. A deposit of £545 was payable under the PRT to be held in an approved scheme, namely Letting Protection Service Scotland.
- v. On 9 February 2024, the Applicants' agent served on the Respondent by email a Notice to Leave to expire on 11 March 2024 on the basis of Grounds 10, 11, 12 and 14 of Schedule 3 of the Private Housing(Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- vi. As at the date of the Notice to Leave being served the arrears accrued were £5,512.77.
- vii. A pre-action protocol letter was sent to the Respondent on 19 January 2024.
- viii. The Applicants served on South Lanarkshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- ix. The Applicants seek an eviction order.

### **The CMD**

At the CMD Mr Gardiner referred to his Submissions dated 26 November 2024 and made the following additional oral representations, supplemented by oral representations from Mr Graeme Edgar as required, in support of the application:-

- i. The current rent arrears balance is £9,762.77.
- ii. No payments have been paid by the Respondent since 25 February 2023 when he made a payment of £257.
- iii. There have been many attempts to address with the Respondent the arrears accrued involving Applicants' past and present Letting Agents as well as Mr Gardiner's firm, Lindsay's.
- iv. The Respondent has made no offers to settle the arrears nor has he provided any explanation for non-payment of rent other than the that the Property is unsafe.
- v. On 17 July 2024 the Property was inspected following a right of access application to the Tribunal by the Applicants in which a warrant was granted by the Sheriff at Hamilton Sheriff Court on 6 June 2024, and no issues were identified that would make the Property unsafe.
- vi. With regard to access to the Property and despite communications with the Respondent he failed to allow access to the Property in clear breach of the PRT. A warrant was needed to for access to be obtained.
- vii. In around the November 2022 there was water leaking from the Property into the flat downstairs and complaints were received at that time. There have been no ongoing complaints. The Respondent still insists the property is not habitable.
- viii. The Respondent comes and goes from the Property. When he is the there are reports of antisocial behaviour. The Property is not the Respondent's only or principal residence. He has had various "run ins" with the police who forced entry on 18 August 2024 in connection with an outstanding arrest warrant. The antisocial behaviour team at South Lanarkshire Council has been involved and the Precognition of Brian McAvoy, an Investigation Officer in the Antisocial Investigation Team at the Council together with emails recording complaints as recently as October 2024 are sufficient proof of the facts.
- ix. Nothing is known about the employment circumstances of the Respondent.
- x. He is believed to have no other dependents, partner or family members living with him.
- xi. He has no known the disabilities or vulnerabilities.
- xii. The Applicants own four properties in total all of which are let out.

- xiii. There is a mortgage over the Property.
- xiv. On around 6 December 2024 a telephone call was received from an unidentified neighbour at the Property complaining that the Respondent was causing excessive noise again and that water was leaking into their property. The Respondent attended with towels to help mop up the water. The Letting Agent was contacted to deal with the situation. It transpired the Respondent had pulled the toilet off the wall as he thought there was a blockage and an emergency plumber required to be instructed to reinstate the toilet and switch the water back on.
- xv. With regard to the payment application FTS/HPC/CV/24/2037 an order is sought in the amended sum of £9,762.77 with interest on that amount at 4% per annum from the date of the Tribunal's decision in terms of Rule 41A(2)(b) of the Rules.

The Tribunal adjourned to consider the application paperwork and the oral submissions made.

### **Findings in Fact**

The Tribunal made the following findings in fact:-

- i. The Applicants are the heritable proprietors of the Property.
- ii. The Applicants leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 4 June 2021
- iii. The rent payable in terms of the PRT is £425 per calendar month.
- iv. A deposit of £545 was payable under the PRT to be held in an approved scheme, namely Letting Protection Service Scotland.
- v. On 9 February 2024, the Applicants' agent served on the Respondent by email a Notice to Leave to expire on 11 March 2024 on the basis of Grounds 10, 11, 12 and 14 of Schedule 3 of the Private Housing(Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- vi. As at the date of the Notice to Leave being served the arrears accrued were £5,512.77.
- vii. A pre-action protocol letter was sent to the Respondent on 19 January 2024.
- viii. The current rent arrears balance is £9,762.77.
- ix. No payments have been paid by the Respondent since 25 February 2023 when he made a payment of £257.
- x. There is a mortgage over the Property.
- xi. The Respondent has made no offers to settle the arrears nor has he provided any explanation for non-payment of rent other than the that the Property is unsafe.
- xii. Following an inspection of the Property on 17 July 2024 the Property was found to be safe.
- xiii. The Respondent failed to allow the Applicants or their agents access to the Property to inspect in breach of Clause 20 of the PRT.
- xiv. In order to obtain access to the Property the Applicants required to make a right of access application to the Tribunal by the Applicants in which a warrant was granted by the Sheriff at Hamilton Sheriff Court on 6 June 2024.
- xv. The Respondent has engaged in antisocial behaviour at the Property on a number of occasions between on or around 21 April 2022 and 6 December 2024 disturbing neighbours such that the noise complaints and Antisocial Behaviour Teams at South Lanarkshire Council required to investigate complaints to them resulting in the Respondent being issued with a written warning and an Unacceptable Behaviour Notice and Police involvement. In particular there were complaints of antisocial behaviour on 9, 10 and 13 June 2023 involving threats by the Respondent, loud music and banging on the Property, knocking on doors in the

- common close, swearing at the Police and causing a commotion in the building of which the Property forms part, all causing nuisance and annoyance to neighbours.
- xvi. The antisocial behaviour of the Respondent is also in breach of Clause 21 of the PRT.
  - xvii. The Applicants served on South Lanarkshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

### **Reasons for Decision**

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicants within the application papers and orally by Mr Gardiner and Mr Edgar at the CMD was not challenged and was accepted by the Tribunal.

The Application proceeds on Ground 11, 12 and 14 of Schedule 3 of the 2016 Act which state:-

#### **“11 Breach of tenancy agreement**

- (1) It is an eviction ground that the tenant has failed to comply with an obligation under the tenancy.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
  - (a) the tenant has failed to comply with a term of the tenancy, and
  - (b) the Tribunal considers it to be reasonable to issue an eviction order on account of that fact.
- (3) The reference in sub-paragraph (2) to a term of the tenancy does not include the term under which the tenant is required to pay rent.”

#### **“12 Rent arrears**

- (1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
- (3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
  - (a) for three or more consecutive months the tenant has been in arrears of rent, and
  - (b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.
- (4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider
  - (a) whether the tenant’s being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and
  - (b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.
- (5) For the purposes of this paragraph—
  - (a) references to a relevant benefit are to—
    - (i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),
    - (ii) a payment on account awarded under regulation 91 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

(6) Regulations under sub-paragraph (4)(b) may make provision about—

(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),

(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

(c) such other matters as the Scottish Ministers consider appropriate.”

#### **“14 Anti-social behaviour**

(1) It is an eviction ground that the tenant has engaged in relevant anti-social behaviour.

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

(a) the tenant has behaved in an anti-social manner in relation to another person,

(b) the anti-social behaviour is relevant anti-social behaviour,

(ba) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact, and

(c) either—

(i) the application for an eviction order that is before the Tribunal was made within 12 months of the anti-social behaviour occurring, or

(ii) the Tribunal is satisfied that the landlord has a reasonable excuse for not making the application within that period.

(3) For the purposes of this paragraph, a person is to be regarded as behaving in an anti-social manner in relation to another person by—

(a) doing something which causes or is likely to cause the other person alarm, distress, nuisance or annoyance,

(b) pursuing in relation to the other person a course of conduct which—

(i) causes or is likely to cause the other person alarm, distress, nuisance or annoyance, or

(ii) amounts to harassment of the other person.

(4) In sub-paragraph (3)—

“conduct” includes speech,

“course of conduct” means conduct on two or more occasions,

“harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997.

(5) Anti-social behaviour is relevant anti-social behaviour for the purpose of sub-paragraph (2)(b) if the Tribunal is satisfied that it is reasonable to issue an eviction order as a consequence of it, given the nature of the anti-social behaviour and—

(a) who it was in relation to, or

(b) where it occurred.

(6) In a case where two or more persons jointly are the tenant under a tenancy, the reference in sub-paragraph (2) to the tenant is to any one of those persons.”

Ground 11 – The Respondent persistently refused access to the Property for the Applicants or their agents to inspect. The Applicants required to make a right of access application to the Tribunal in which a warrant was granted by the Sheriff at Hamilton Sheriff Court on 6 June 2024. The Respondent’s refusal of access constitutes a breach of Clause 20 of the PRT. It is reasonable on account of those facts to issue an eviction order.

Ground 12 - The current rent arrears balance is £9,762.77. The arrears do not arise wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and the Applicants have complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. It is reasonable on account of those facts to issue an eviction order.

Ground 14 – The application for an eviction order was made on 3 May 2024. The Respondent has engaged in relevant antisocial behaviour in the 12 month period prior thereto and subsequently. In particular there were complaints of antisocial behaviour on 9, 10 and 13 June 2023 involving threats by the Respondent, loud music and banging on the Property, knocking on doors in the common close, swearing at the Police and causing a commotion in the building of which the Property forms part, all causing nuisance and annoyance to neighbours. The Respondent’s antisocial behaviour is also in breach of Clause 21 of the PRT. It is reasonable to issue an eviction order on account of those facts.

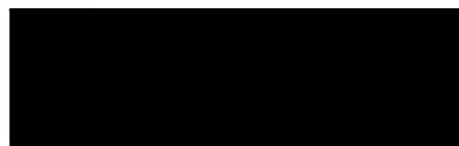
The Tribunal considered whether to suspend enforcement of the eviction order but determined that, in the particular, circumstances no suspension was appropriate.

### **Decision**

The Tribunal grants an eviction order in favour of the Applicants against the Respondent.

### **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.**



---

**Gillian Buchanan**  
**Legal Member/Chair**

**10 December 2024**  
**Date**