

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) under Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/1016

Re: Property at 32 Castle Court, Kirkintilloch, G66 1LL ("the Property")

Parties:

Mr William McAdam, 13 Smithyends, Cumbernauld, G67 2SJ and Ms Yvonne McAdam, 16 Yetts Crescent, Kirkintilloch, G66 3RN ("the Applicants")

Mr Jordan Kingston, 32 Castle Court, Kirkintilloch, G66 1LL ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

At the Case Management Discussion ("CMD"), which took place by telephone conference on 14 January 2025, the Applicants were not present but were represented by Ms Maria McNulty of R&G Estate Agents. The Respondent was also present and was represented by Mr Raymond Heath of East Dunbartonshire CAB.

Prior to the CMD the Tribunal received from the Applicants' representative an email dated 24 December 2024 with attachments.

The Tribunal also received from the Respondent's representative emails dated 5 and 12 December 2024 with attachments.

The CMD is in respect of this matter and the related application bearing reference FTS.HPC.EV.24.1015.

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

Background

The Tribunal noted the following background:-

- i. The Applicants are the heritable proprietors of the Property.
- ii. The Applicants are estranged and have reached agreement on the settlement of their joint affairs which includes title to the Property being transferred to the Second Applicant alone in exchange for payment by the Second Applicant to the First Applicant of a capital sum.

- iii. The Applicants leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 23 February 2022.
- iv. The rent payable is £650 per month.
- v. Rent arrears have accrued.

The CMD

At the CMD Ms McNulty made the following representations:-

- i. Firstly, the Tribunal observed that the application runs in the name of Ms Yvonne McAdam alone and drew attention to the terms of the letter of authority from Mr William McAdam dated 20 June 2024 which authorises that the action be raised in their joint names before Tribunal relative to the Property. Ms McNulty stated that as at the CMD title to the Property remains in the joint names of the Ms and Mr McAdam. In order to settle the divorce between Ms and Mr McAdam the Property requires to be sold in order that a capital sum agreed to be payable by Ms McAdam to Mr McAdam can be paid. Mr McAdam is aware of the proceedings and wants the funds that are agreed to be due to him. The application was raised by Ms McAdam personally. Given the terms of the mandate Ms McNulty invited the Tribunal to allow the application to be amended into the joint names of Ms and Mr McAdam.
- ii. The current rent arrears balance as at the CMD is £8,904.55 with the most recent payments having been made on 2 January 2025 in the sums of £650 by way of the ongoing monthly rent and £150 by way of a contribution towards the arrears.
- iii. Previously an application was made for the Universal Credit being received by the Respondent to be paid directly towards the rent. This happened briefly then the Respondent cancelled his Universal Credit. He continues in occupation of the Property. This situation cannot continue.
- iv. There is a mortgage over the Property.
- v. There is a mortgage over Ms McAdam's own home at 16 Yetts Crescent, Kirkintilloch.
- vi. The Property is not being looked after. Dogs are present without permission. This has caused the Property to be unclean with a bad smell which will incur costs to put right.
- vii. The Respondent has made various promises of payment relative to the arrears, for example, that the sums would be settled from an inheritance expected from Germany, and he also previously stated that he had secured another property. Nothing has come to fruition.
- viii. The Respondent also mentioned the Church being involved.
- ix. Ms McNulty sought to amend the application in terms of Rule 14A of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017 to increase the arrears claimed to £8,904.55. She referred to her email of 24 December 2024 and the intimation to the Respondent referred to therein.

At the CMD Mr Heath and the Respondent made the following representations: –

- i. The paperwork submitted by the Applicant is in order.
- ii. The Respondent's personal statement lodged by email on 12 December 2024 outlines his financial struggles and poor mental health.
- iii. He is working with Christians Against Poverty and has a debt arrangement scheme being managed by them. The payments made on 2 January 2025 were in respect of the December rent/arrears contribution.
- iv. The debt is not in dispute. The Respondent accepts responsibility for the debt.
- v. He does, however, dispute some of the personal comments made in the Applicant's representative's email of 24 December 2025.

- vi. The Respondent is working full-time as an HGV mechanic with Scania. He has held this employment since 1 June 2024 and receives net earnings of £1500 per month.
- vii. He has other debts.
- viii. His partner is not working and is in receipt of Adult Disability Payments at £514.60 per month.
- ix. The Respondent and his partner have no dependents.
- x. In response to a question from the Tribunal as to why the Respondent had not paid any rent between 1 June 2024 when he started employment and November 2024 when a months rent was paid together with a contribution towards the arrears, the Respondent stated that he had been advised not to pay one creditor to the prejudice of others. The Debt Management Scheme would deal with payment of creditors once the Respondent had been set up on the system.
- xi. The Respondent stated that he had hoped to receive a small amount of money from a family member that had passed away but that inheritance had not been received. There had been a massive rift within the Respondent's family and he was not willing to pursue payment.
- xii. With regard to alternative accommodation, at one stage he and his partner were to be moving in with friends who were purchasing a property and would have a spare room. The purchase fell through.
- xiii. With regard to the presence of dogs, the Respondent stated that the previous landlord had given permission and the letting agent had visited and was also content with the presence of the dogs.

The Tribunal adjourned to consider the parties' written and oral representations.

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 23 February 2022.
- iii. The current rent arrears balance as at the CMD is £8,904.55.
- iv. The Respondent has other debts in addition to the rent arrears. He is working with Christians Against Poverty and has a debt arrangement scheme being managed by them.
- v. The Respondent made payments of £650 and £150 on each of 28 November 2024 and 2 January 2025.
- vi. The Respondent is working full-time as an HGV mechanic with Scania. He has held this employment since 1 June 2024 and receives net earnings of £1500 per month.
- vii. His partner is not working and is in receipt of Adult Disability Payments at £514.60 per month.
- viii. The Respondent and his partner have no dependents.

Reasons for Decision

Firstly, the Tribunal allowed the application to be amended to run in the names of both Ms Yvonne McAdam and her estranged husband, Mr William McAdam. This accords with the letter of authorisation Mr McAdam provided relative to these proceedings. As at the CMD title to the Property remained in their joint names. There is no prejudice to the Respondent in the amendment being allowed and no opposition was offered.

Secondly, the Tribunal allowed the sum claimed in the application to be amended to £8,904.55. There was no opposition from the Respondent who admitted the arrears to be due.

There were no substantive disputed facts between the parties. Accordingly, the Tribunal granted an order against the Respondent in favour of the Applicants in the sum of £8,904.55.

Determination

The Tribunal -

- i. Allowed the application to be amended to run in the names of Ms Yvonne McAdam and her estranged husband, Mr William McAdam;
- ii. Allowed the sum claimed in the application to be amended to £8,904.55; and
- iii. Granted an order against the Respondent in favour of the Applicants in the sum of £8,904.55.

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.

G.Buchanan

Legal Member/Chair

—— **15 January 2025**
Date