



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

Chamber Ref: FTS/HPC/EV/24/2216

Re: Property at 61 Finnieston Street, Greenock, PA15 2LD (“the Property”)

Parties:

LHP Solutions Ltd, Clyde Offices, 2nd Floor, 48 West George Street, Glasgow, G2 1BP (“the Applicant”)

Ms Stephanie Shaw, 61 Finnieston Street, Greenock, PA15 2LD (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.

Background

1. By application dated 13 May 2024 the Applicant’s representatives, RRJ Lettings Ltd, Glasgow, applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Grounds 12 and 12A of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a tenancy agreement, Notice to Leave, Rent Statement and Section 11 Notice together with other documents in support of the application.
2. By Notice of Acceptance dated 3 July 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 26 September 2024.
4. The Respondent submitted written representations to the Tribunal by emails dated 30 September, 4, 9, 10 and 14 October 2024.
5. The Applicant's representatives submitted written representations to the Tribunal by email dated 28 October 2024.
6. A CMD was held by teleconference on 29 October 2024. The Applicant was represented by its Director Mrs Kate Jalil and Mr Raffiq Jalil from RRJ Lettings Ltd. The Respondent attended in person. The Tribunal noted that it was agreed that the parties had entered into a Private Residential Tenancy that had commenced on 9 May 2023 at a rent of £425.00 per calendar month. It was also agreed that the Respondent had been personally served with a Notice to Leave under Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act") on 16 April 2024 and that a further copy of the Notice to Leave had been delivered to her at her home on the same day. The Tribunal noted that the Notice to Leave provided that the Applicant would not raise proceedings with the Tribunal before 14 May 2024 and that the Respondent was not taking any issue with the validity of the notice. The Tribunal also noted that a Section 11 Notice had been sent to Inverclyde Council by email on 16 May 2024 and that at the date of sending the Notice to Leave the Respondent was said to owe rent of £2975.00 and which had risen to £3400.00 at the date of raising proceedings. Ms Shaw advised the Tribunal that due to concerns of harassment and also uncertainty as to who the Applicant's letting agents were she had not wished documents submitted to the Tribunal administration to be crossed to the Applicant's representatives. The Tribunal explained that it was important that both parties fully understood the nature of the other party's case and that going forward the Tribunal would determine what documents should be disclosed to the other party. Ms Shaw advised the Tribunal that when she commenced the tenancy the Applicant's letting agents had been Mackenzie Way but that they had ceased to represent the Applicant and two other letting agents, Limegreen and RRJ Lettings had said they had been appointed in October 2023. Ms Shaw said that she had sought advice from Shelter at the time and had been advised to wait before making payment until provided in writing with confirmation of who was the appointed letting agent. Ms Shaw said that she had never been provided with anything. Ms Shaw went on to say that there had been issues with the property since moving into it in May 2023. Ms Shaw spoke of there being mould in the property and having no heat or hot water in May and June 2023 and that there were also structural issues with the property. Ms Shaw also advised the Tribunal that recently there had been electrical issues and there was no longer lighting in the bathroom and there were also issues with sewage in the rear garden. Ms Shaw advised the Tribunal that she had sought advice from the Legal Services Agency, Shelter and CAB but had been unable to obtain representation to progress a claim under the repairing standards legislation and had not

felt confident to undertake making an application herself. In response to a query from the Tribunal as to whether she had reported the repair issues to the Applicant, Ms Shaw said that the Applicant was not contactable but that she had contacted Mackenzie Way and had also contacted RRJ Lettings on several occasions but that Mr Jalil did not want to know and had said it was not his problem. Ms Shaw said that she had retained the rent money due in an account but also said that she did not consider that most of the rent was actually due to the poor condition of the property and the failure of the Applicant to carry out repairs causing damage to her belongings. Ms Shaw said that as a result of the issues with the property and the harassment she had been subjected to she had contacted the local council and the police. Ms Shaw said she was still waiting on a report from the police. For the Applicant, Mr Jalil said that due to the volatility of the Respondent she had been reported to the police. Mr Jalil said that contractors who had attended at the property to undertake repairs had been harassed by the Respondent and had been refused entry. Mr Jalil said that an application for Right of Entry had been made on behalf of the Applicant but that after taking advice from the Scottish Association of Landlords the application had been withdrawn and the Applicant had been advised to proceed with the current application. Mr Jalil said that it was not possible for contractors to work in the property given the Respondent's behaviour. Mr Jalil also said that in light of an incident where the Applicant had followed a contractor down the street and into private property and shouting abuse the incident had been reported to the police and a reference number had been provided. Ms Shaw disputed Mr Jalil's account and said that there had been one occasion when Mr Jalil had attended at the property when she had been expecting "Chris" to carry out some maintenance. She said that she had asked for some I.D. but that this was refused and that he had refused to leave. Ms Shaw said that he then asked to speak to "the man of the house" when he knew she lived alone and that she had then phoned the police. Ms Shaw went on to say that on the other occasion referred to by Mr Jalil she had been concerned that Mr Jalil had been harassing and bullying a friend in another property. Ms Shaw said that she had approached the person involved and asked if he was going to do anything about it. Ms Shaw did accept that she had "lost it" that day but had not spoken to the police in connection with the incident. Ms Shaw advised the Tribunal that she lived alone in the property and was working part-time and studying as well. Mrs Jalil advised the Tribunal that the current rent due amounted to £5525.00 and would on 1 November increase to £5950.00. Mrs Jalil also advised the Tribunal that there was a mortgage over the property and that the failure to pay rent was having an adverse effect on the Applicant. In response to a query from the Tribunal as to whether Pre-action requirement letters had been sent to the Respondent, Mrs Jalil said that the Respondent had been aware that rent was due and that correspondence had been sent to her. Mrs Jalil also said that if an order for eviction was granted it would be the Applicant's intention to inspect the property and carry out any necessary repairs and then market the property for rent. Ms Shaw advised the Tribunal that she was looking to move out of the property at some point but had not found anywhere to

move to. After hearing from the parties, the Tribunal adjourned the proceedings to a hearing on whether the Respondent was entitled to withhold payment of rent pending repairs being carried out or was entitled to a reduction in rent or whether it was reasonable to grant an order for eviction.

7. Following the CMD the Tribunal issued Directions dated 29 October 2024 to the Applicant and the Respondent.
8. By email dated 31 October 2024 the Respondent provide a bank statement to the Tribunal in partial compliance with the Tribunal's directions.
9. By email dated 2 November 2024 the Respondent submitted further written representations to the Tribunal.
10. By email dated 27 December 2024 the Respondent requested that the hearing proceed as an in-person hearing rather than a teleconference hearing.
11. By email dated 31 December 2024 the Applicant's representatives submitted an Inventory of Productions and List of Witnesses in compliance with the Tribunal's Directions dated 29 October 2024.
12. By email dated 3 January 2024 the Respondent requested an extension of time to comply with the Tribunal's Directions and to apply for legal aid.
13. By email dated 6 January 2025 the Respondent requested a postponement of the hearing as it was a telephone hearing.
14. By email dated 7 January 2025 the Applicant's representatives submitted written representations opposing a postponement of the hearing.
15. After considering both parties submissions the Tribunal rearranged the hearing to take place on the day previously assigned but as an in-person hearing at Glasgow Tribunals Centre.
16. By email dated 10 January 2025 the Respondent submitted further written representations.
17. By email dated 22 January 2025 the Respondent submitted files to the Tribunal administration in a format that could not be opened and was advised by the administration to resubmit the documentation as attachments in .pdf or Word format.
18. By email dated 23 January 2025 the Respondent advised the Tribunal administration she was unable to resubmit the documents in the correct format.

19. By email dated 27 January 2025 the Tribunal administration provided further guidance to the Respondent on submitting files to the Tribunal and the Respondent acknowledged receipt by email on 27 January 2025.

The Hearing

20. A Hearing was held at Glasgow Tribunals Centre on 4 February 2025. The Applicant was represented by Mrs Kate Jalil, supported by Ms Samantha Robertson. The Respondent attended in person. There was a delay to the commencement of the hearing as the Respondent took exception to the presence of one of the Applicant's witnesses, Mr Raffiq Jalil, in the building. After some discussion with the parties Mr Jalil left the building and the Respondent agreed to attend the hearing.
21. At the commencement of the hearing the Tribunal queried with the Respondent why she had failed to comply with the Tribunal's directions. The Respondent disputed that she had failed to comply as she said she had submitted her evidence and referred to the email that she had sent to the Tribunal administration on 22 January 2025. The legal member of the Tribunal explained that this did not comply with the Tribunal's requirements and that the Respondent ought to have resubmitted the documents in an appropriate format. The Respondent remained adamant that the problem was the Tribunals not hers and that she had supplied the required documents.
22. The Tribunal asked the Respondent to specify the issues with the property that had resulted in her withholding rent. The Respondent said that the gas boiler was not working or was not fully functional. She said that when she moved into the property in May 2023 the boiler was not working but that a patch-up repair had been carried out but that by October 2023 the boiler was not working at all. She said that the Applicant's then letting agents Lime Green had sent someone to repair the boiler but that it had not worked for long.. The Respondent said she had kept raising the issue with the Applicant's agents. She also said that there was no gas safety certificate for the boiler. The Respondent went on to say that she had found other accommodation and had moved out of the property in October 2024. The Respondent said that the accommodation she was in was from month to month but that she had signed a tenancy agreement.
23. When asked why she had asked Safe Deposits for the return of her deposit the Respondent said this had been because she had been advised by Shelter to withhold rent because of the lack of clarity as to who her rent was to be paid to following the changes in letting agents and Open Rent being shown as the landlord's agents on the Landlord Register but they had said they had never had any dealings with the landlord.

24. The Respondent went on to say that a further issue with the property was an escape of sewage into the rear garden. The Respondent explained she occupied the top floor flat and that her drain was not blocked but that waste from the property below was backing up and flowing into the garden. The Respondent said she had contacted River Clyde Homes who owned the remaining properties in the block as the problem had been evident for a long time and it was communal property. The Respondent said that one pipe had been repaired in 2023 and that she had been told that they had tried to contact the landlord but had no response and had said they could not do much.
25. The Respondent went on to say that there had been several leaks coming through the walls at the top near the ceiling in both bedrooms with water seeping through.
26. The Respondent also said that there were issues with the electric lights in both the bathroom and the living room and that the light in the bathroom no longer worked and had not worked for seven months. She also said that the light in the living room was faulty as well and that it was a hit or a miss if it worked.
27. The Respondent went on to say that the windows in the property were not secure and did not close properly and that she had arranged for a neighbour of her parents to carry out repairs.
28. The Respondent denied that she had refused access to the property to carry out inspections or repairs. She said that the only people she had chucked out of the property were Raffiq (Jalil) and Chelsea. The Respondent denied that contractors had been unable to gain access to the property.
29. In response to a query from the Tribunal the Respondent accepted that her language in certain emails sent to RRJ Lettings had been inappropriate. The Respondent also confirmed that she had emailed the Applicant's representatives on 25 November 2024 telling them not to contact her and that she would not grant them access to the property. The Respondent said she would have granted access to reputable tradesmen.
30. The Respondent went on to say that there had been a lack of clarity about the role of the Applicant's agents and about repairs being done and that she had been advised by Shelter not to pay until she had proof of who should be paid and that the rent money should be put aside. The Respondent said that she was looking for compensation as she had been treated reprehensibly and that she was not going to pay any rent and wanted the rent that she had paid returned.
31. The Respondent said that when she viewed the property in February 2023 it had just been repainted but she had not moved in until 9 May

2023. She said that when she moved in the heating was not working and someone came on 10 May to fix it. She said that there were loads of things that she then noticed such as missing door handles and mould on the floor under a sofa.

32. The Respondent again advised the Tribunal that she was not prepared to have any dealings with RRJ Lettings as she thought they should be shut down.
33. The Respondent confirmed that she was a full-time student, lived alone and also worked part-time. She said that she was no longer putting aside the rent money since she moved out of the property as she had to pay rent for the property she was living in. She advised that the current rent arrears figure quoted by the Applicant was correct but again stressed that she had no intention of paying anything.
34. For the Applicant Mrs Jalil advised the Tribunal that at the commencement of the tenancy the property had been managed by previous letting agents, Mackenzie Way, and they had then been replaced by Lime Green Estate Agents Limited before the current managing agents RRJ Lettings Ltd assumed responsibility for the property. Mrs Jalil referred the Tribunal to the Applicant's Inventory of Productions at page 34 which was an email from Lime Green to the Respondent dated 22 November 2023 confirming their appointment and providing details of the Applicant's address. The email also advised that they had not received a list of repairs from the Respondent and that they were unable to move forward without it. Mrs Jalil went on to say that following the contract with Lime Green being terminated RRJ had contacted the Respondent to advise her of the change of agent and referred the Tribunal to the emails dated 5, 6, 12 and 18 March and 18 April 2024 (Applicant's Inventory pages 46-50) that confirmed that RRJ Lettings Limited were the Applicant's point of contact in respect of the property.
35. Mrs Jalil advised the Tribunal that there had been issues with the Respondent from the commencement of the tenancy and referred the Tribunal to an email from Mackenzie Way dated 11 May 2023 addressed to RRJ Group advising that the Respondent's behaviour towards them had been unacceptable. (Applicant's Inventory page 15)
36. At this point in the proceedings the Respondent abruptly left the hearing saying she needed a break and the hearing was adjourned. During the adjournment the Tribunal was advised by the Tribunal Clerk that the Respondent had left the building and was not returning. In the circumstances the Tribunal determined to continue with the hearing in the absence of the Respondent.
37. Following the adjournment, Mrs Jalil resumed her evidence. She advised the Tribunal that the Applicant's agents and contractors had experienced

difficulty in gaining access to the property to carry out inspections and repairs. Mrs Jalil referred the Tribunal to an email sent to the Respondent by Lime Green dated 4 March 2024 (Applicant's Inventory page 57) that referred to attempts when access had not been granted.

38. In response to a query from the Tribunal about the condition of the gas boiler the Tribunal was advised that the boiler was relatively new having been installed following the purchase of the property in 2019. Ms Robertson said that the Respondent had been advised to leave the boiler switched on and turn down the thermostat but that instead she had switched the boiler off and that this had led to some issues with it but that she believed the boiler was working properly although according to an email from Boiler Technicians dated 26 May 2023 (Applicant's Inventory page 23) the electrodes will need replaced.
39. In response to a further query from the Tribunal Mrs Jalil said she had no record of being approached by the factors who manage the block in which the property is located regarding an issue with sewage in the back garden. She said if there had been such an issue it would have been dealt with by the factor and a charge levied for the repair.
40. Mrs Jalil advised the Tribunal that the rent arrears now amounted to £7225.00 and that the loss of rent was having an impact on her business as she had a mortgage to pay on the property and interest rates were high.
41. Mrs Jalil said that two companies who service gas boilers had refused to attend at the property because of the Respondent's behaviour. Mrs Jalil went on to say that the Respondent would not engage with RRJ Lettings and it made continuing with the tenancy completely untenable. In response to a query from the Tribunal Mrs Jalil said that neither she nor RRJ Lettings had ever been contacted by the police over issues concerning the Respondent. The only police involvement had been when the Respondent had been reported to the police following an incident when she had chased one of RRJ's employees down the road and had shouted and sworn at them. Mrs Jalil confirmed that the Respondent did threaten to call the police every time RRJ contacted her.
42. Mrs Jalil confirmed that the Respondent had requested that her deposit be returned in December 2023 and March 2024 (Applicant's Inventory pages 37 - 42) and that she had received an email from Inverclyde Council dated 21 November 2024 requesting confirmation of the end date of the tenancy (Applicant's Inventory page 61).
43. Mrs Jalil referred the Tribunal to the documents contained in the Applicant's Inventory of Productions and submitted that the Respondent had failed to show that she was withholding rent or had funds to pay the rent and that given the level of arrears and the Respondent's behaviour it was reasonable to grant the order for eviction.

Findings in Fact

44. The parties entered into a private residential tenancy that commenced on 9 May 2023 at a rent of £425.00 per calendar month.
45. The Respondent fell into arrears of rent from October 2023 and has not paid any rent since 9 October 2023.
46. The current amount of rent due by the Respondent to the Applicant amounts to £7275.00.
47. The Respondent was served with a Notice to Leave under Ground 12 of Schedule 3 of the 2016 Act on 16 April 2024.
48. Intimation of the proceedings was sent to Inverclyde Council by way of a Section 11 Notice by email dated 16 May 2024.
49. The respondent was sent Pre-action requirement letters dated 16.04.24, 16.05.24, 16.06.24 and 16.07.24.
50. At the commencement of the tenancy the Respondent complained that the gas boiler at the property was not working and the Applicant's then agents Mackenzie Way arranged for gas engineers to carry out repairs.
51. The Respondent continued to claim there were issues with the boiler.
52. The Applicant's gas engineers Boiler Technicians Limited blocked the Respondent's number due to the number and nature of the voicemails left by the Respondent.
53. The property has been managed by its agents RRJ Lettings Limited since March 2024.
54. The Respondent has issues with the Applicant's agents RRJ Lettings Ltd and in particular with Mr Raffiq Jalil.
55. The Respondent refuses to co-operate or communicate with RRJ Lettings or to permit inspections.
56. The Respondent has sent abusive emails to RRJ lettings employees.
57. The Respondent has shouted and sworn at RRJ Lettings employees when they have attended at the property.
58. The Applicant has granted a standard Security over the property.

59. The Respondent moved out of the property in October 2024 and has entered into a new tenancy agreement.
60. Prior to moving out of the property the Respondent had retained funds in a bank account sufficient to meet her unpaid rent.
61. Since moving out of the property the Respondent has not retained funds for the rent.
62. The Respondent is not prepared to make any payment to the Applicant in respect of rent that is due.

Reasons for Decision

63. The Tribunal was satisfied from the documents submitted and the oral submissions of both parties that the parties entered into a Private Residential tenancy that commenced on 9 May 2023. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 12 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Inverclyde Council by way of a Section 11 Notice on 16 May 2024.
64. There were two issues for the Tribunal to determine at the hearing. Firstly, whether the Respondent was entitled to withhold rent due to the Applicant failing to carry out repairs to the property and secondly whether it would be reasonable in the circumstances to grant an order for the eviction of the Respondent from the property. Because of the nature of the complaints being made by the Respondent at the CMD the Tribunal issued formal directions to both parties after the CMD on 29 October 2024. This gave the parties until 31 December 2024 to comply by providing the documentation and information requested. The Applicant complied with the Directions. The Respondent did not. The Tribunal following representations by the Respondent allowed the Respondent additional time to comply but she still failed to do so. The Respondent did on 22 January 2025 submit documentation to the Tribunal administration but in a format that the administration was unable to accept and the Tribunal administration provided the Respondent with advice on how the Respondent could attach the files as word or pdf documents so that they would be accepted. Despite this the Respondent still failed to comply with the Tribunal's Directions.
65. The Tribunal was satisfied that the Respondent had been given adequate opportunities to submit any documents or photographs that she wished to submit to the Tribunal prior to the hearing and did not accept her submission that she had been unable to submit the documents in the required format. The Tribunal did not find some of the Respondent's evidence to be credible. There was certainly an issue with the gas boiler at the commencement of the tenancy but the Applicant's then agents attended to this and engineers had attended to this by the end of May

2023. Whether or not there were ongoing issues with the boiler or whether they were caused by the Respondent switching it off and then switching it back on is difficult to say. However, by refusing to co-operate with the Applicant's agents RRJ Lettings and refusing to allow inspections and contractors to attend the Respondent has largely herself to blame if there are any ongoing issues.

66. The Tribunal was not satisfied with the Respondent's evidence as regards sewage backing up from a drain to the rear of the property and flowing into the rear garden. As the block in which the property is located is factored by River Clyde Homes the Tribunal preferred the evidence of Mrs Jalil who said the factors had never been in contact and that if there had been a leakage of sewage the factor would have attended to it as part of their normal duties both as factors and as landlords of the neighbouring properties.
67. It was clear that the Respondent had an issue with RRJ Lettings in general and Mr Jalil in particular to the extent that any communication from RRJ Lettings was met with a threat to contact the police. The Respondent said that it was her intention to have the company shut down but this, as the Tribunal explained to the Respondent, was not part of the Tribunal's role in this application. What was clear to the Tribunal was that the Respondent refused to co-operate in any way with the Applicant's chosen agents. It is therefore difficult to see how the tenancy can continue in this situation.
68. By not permitting the Applicant's agents or contractors access to the property the Tribunal cannot be satisfied that the Respondent's claims with regards to the lights in the bathroom and living room and the other issues such as damp and mould and ill-fitting windows at the property are correct.
69. The Tribunal noted that the Respondent had moved out of the property at the end of October 2024 and had commenced a new tenancy at that time. Although the Respondent said that this was a month-to-month tenancy she confirmed she had signed a tenancy agreement and had registered for Council Tax. The Respondent has also said that she does not intend to pay any rent to the Applicant and indeed is looking to have all the rent she did pay returned to her.
70. As the Respondent has not been living in the property for several months it would have been easy for the Respondent to allow the Applicant's agents and contractors to gain access to the property to carry out any necessary repairs in her absence but she chose not to do this.
71. The Tribunal found Mrs Jalil to be a credible and convincing witness. The documents submitted on behalf of the Applicant demonstrate issues arising with the Respondent from early in the tenancy and with the

Respondent using intemperate language in emails to staff and to contractors.

72. Both Lime Green Estate Agents and subsequently RRJ Lettings made it quite clear when they were being instructed by the Applicant and a tenant would have been in no doubt as to who rent ought to be paid to.

73. The Respondent has deliberately refused to co-operate or communicate with the Applicant's agents and has accumulated rent arrears amounting to £7275.00. The Applicant does not intend to pay any rent to the Applicant. The Tribunal is not satisfied from the evidence before it that the Respondent is entitled to withhold rent or to an abatement of rent. The Tribunal is satisfied that the Respondent's non-payment of rent is having an adverse effect on the Applicant's finances given the amount due and the fact that there is a mortgage over the property. The Tribunal is satisfied from the evidence that the Applicant is entitled to an order under Ground 12 of Schedule 3 of the 2016 Act.

Decision

74. The Tribunal finds the Applicant entitled to an order for the eviction of the Respondent from the property under Ground 12 of Schedule 3 of the 2016 Act.

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.

Graham Harding

**Graham Harding
Legal Member/Chair**

**7 February 2025
Date**