

Housing and Property Chamber

First-tier Tribunal for Scotland



Decisions with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 51 and 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Refs: FTS/HPC/EV/24/5541 and FTS/HPC/CV/24/2544

Re: Property at 24 Reid Place, Glenrothes, Fife, KY6 2AY (“the Property”)

Parties:

The Sidhu Portfolio Ltd, 3 Milne Field, Pinner, Middlesex, HA5 4DP (“the Applicant”)

and

Mr Stuart Donnelly 24 Reid Place, Glenrothes, Fife, KY6 2AY (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

E Williams - Ordinary Member

Decisions

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines as follows:

- 1) To grant an eviction order; and**
- 2) To grant an order for payment to the Applicant, The Sidhu Portfolio Ltd, by the Respondent, Mr Stuart Donnelly, of the sum of £8,050.00.**

Background

- 1. These are Applications for an eviction order in terms of Rule 109 (Application for an eviction order) and for a payment order in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of The First-tier**

Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

Case Management Discussion on 27th February 2025 at 2.00pm

2. A Case Management Discussion proceeded by remote teleconference call at 2.00pm on 27th February 2025. The Applicant’s director, Mr D Sidhu, and the Respondent, Mr S Donnelly, attended.
3. Mr Sidhu referred to the Applications and the additional documentation which he had submitted to the Tribunal’s office with an email sent on 17th February 2025. He stated that he is 39 years old and that he and his wife have children aged 8 and 6. He stated that the interest rate in respect of his mortgage loans for his company’s 4 rented properties have increased and that he requires to sell them for financial reasons. He referred to the Rent Statement which he had recently lodged with the Tribunal’s office and stated that Mr Donnelly’s current rent arrears are in the sum of £8050.00. Mr Sidhu stated that he has suffered ill health due to the stress of being under financial strain. his circumstances are continuing to cause him financial hardship. He stated that he had carried out a bathroom ceiling repair at the Property last year. He said that he had instructed that another repair be done but that he had not heard from Mr Donnelly regarding arrangements. He asked the Tribunal to grant both Applications as soon as possible.
4. Mr Donnelly stated that he has also been suffering ill health, in particular following his loss of both of his parents last year. He acknowledged that there are rent arrears of £8050.00. He said that he had previously not paid rent due to the bathroom ceiling damage. He did not disagree that a patch repair had been carried out and that Mr Sidhu had been in contact with him to investigate his complaint that there was another ceiling leak. Mr Donnelly said that he had viewed various other properties in the last year, since Mr Sidhu intimated to him an intention to sell the Property, but none had been suitable. Mr Donnelly said that he has 10 years old twins who live in Portugal and who he would like to visit him. He stated that he had not been carrying out his painting contractor work for a number of months but that he has an upcoming hotel painting contract and has also applied for Universal Credit benefit. He stated that he has received advice and support from the Citizens Advice Bureau, a solicitor and Veterans First Point. Mr Donnelly said that he understood that Mr Sidhu wished to sell the Property for financial reasons and stated that he would like to have some time to obtain a new tenancy. He stated that when he can he will repay the rent arrears owing. He, candidly, apologised to Mr Sidhu for the fact that the parties had ended up in Tribunal proceedings.

Findings in Fact and Law and Reasons for Decisions

5. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) the Tribunal is to issue an eviction order under a private residential tenancy (“PRT”) if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.

6. Schedule 3 (1) (1) of the 2016 Act provides that it is an eviction ground that a landlord intends to sell the let property and confirms the criteria for the grant of an eviction order on this ground.
7. Section 71 of the 2016 Act provides as follows:
 - (1) In relation to civil proceedings arising from a private residential tenancy-
 - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
 - (b) a sheriff does not have competence or jurisdiction.
 - (2) For the purposes of subsection (1), civil proceedings are any proceedings other than-
 - (a) the prosecution of a criminal offence,
 - (b) any proceedings related to such a prosecution.
8. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for an eviction order and order for payment of unpaid rent against a tenant (such as the Respondent) in respect of a tenancy such as the tenancy agreement of the parties.
9. Having considered all of the documentary evidence and representations, in respect of the Applications, as well as the oral evidence and submissions of Mr Sidhu and Mr Donnelly, the Tribunal finds in fact that Applicant, with the assistance of their letting agent, has provided the Tribunal, in the Application for an eviction order, with copies of the parties' PRT, the requisite Notice to Leave ("NTL") and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. The NTL, and the Application for an eviction order, proceed in terms of Schedule 3 (1) in the 2016 Act. The Tribunal further finds in fact that the Applicant requires to sell the Property for financial reasons. Both Mr Sidhu and Mr Donnelly have been suffering ill-health. Mr Donnelly intends to move out of the Property. His current rent arrears are in the sum of £8050.00. He intends to repay these monies when he has a regular income. In making their findings in fact the Tribunal relied, in particular, on the oral evidence and submissions of Mr Sidhu and Mr Donnelly
10. Accordingly, the Tribunal finds in law that the ground in Schedule 3 (1) of the 2016 Act is met, as the Applicant intends to sell the Property, and that it is reasonable that an eviction order be granted but not enforced before 28th April 2025. In reaching their decision to defer the date for enforcement of the eviction order the Tribunal seek to strike a fair balance in respect of the parties' respective position and aims. Both parties have been suffering ill-health and both want matters to be concluded so that they have certainty going forward. The grant of the eviction order with a deferred enforcement date gives the Applicant the certainty of the ending of the tenancy agreement and entitles them to recover the Property. It gives Mr Donnelly some further time to gain regular income and, hopefully, obtain another,

suitable tenancy. The stabilisation of his financial position should also enable Mr Donnelly to arrange a rent arrears repayment schedule with Mr Sidhu. The Tribunal also find in law that Mr Donnelly is obliged to pay arrears monies, in the sum of £8050.00, to the Applicant, in terms of the parties PRT.

11. If Mr Donnelly obtains another tenancy in advance of 28th April 2025 the Tribunal ask that he notifies Mr Sidhu and the Applicant's letting agent as soon as possible.

Decisions

12. Therefore, the Tribunal makes an order for eviction of the Respondent, Mr Stuart Donnelly, from the Property at 24 Reid Place, Glenrothes, Fife, KY6 2AY and, also, an order for payment to the Applicant, The Sidhu Portfolio Ltd, by the Respondent, Mr Stuart Donnelly, of the sum of £8050.00.

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 McWilliams

G McWilliams

27th February 2025
