



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/24/3360

Re: Property at 62 Ballochnie Drive, Airdrie, ML6 7ND (“the Property”)

Parties:

McKeown Property Ltd, 6 Hillside Drive, Blackridge, EH48 3SL (“the Applicant”)

Miss Eyvonne McCann, 62 Ballochnie Drive, Airdrie, ML6 7ND (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction.

1. By application dated 23 July 2024 the applicant seeks an order for eviction, relying on ground 12 (rent arrears for three or more consecutive months) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Notice to Leave and Guidance dated 4 June 2024 with proof of delivery
 - Rent statements
 - Pre action correspondence
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.
3. A case management discussion (“cmd”) was assigned for 31 March 2025

Case management discussion – 31 March 2025 – teleconference

4. Mr McKeown was in attendance with his representative Ms Orr, from Martin & Co. Letting Agents. The respondent was not present or represented. The Tribunal was satisfied that the respondent had received proper notice of the cmd and proceeded with the cmd in her absence in terms of rule 29.
5. The applicant sought an order for eviction. Ms Orr stated that arrears as at the date of the cmd amounted to £1230.14 .She stated that the arrears had decreased from £2059.29 since the application had been submitted. Ms Orr confirmed that the respondent receives universal credit to cover the monthly rent charge of £475. The arrears had built up after the tenancy commenced on 20 December 2023. She stated that from April 2024 payments had been made directly from DWP to the rent account. Ms Orr confirmed that direct payments of £39.35 were made towards the outstanding arrears each month which was gradually decreasing the arrears.
6. Ms Orr stated that the respondent resided in the tenancy with her son who was born in 2015. She stated that there had been wider concerns in relation to the conduct of the tenancy. Specifically, Ms Orr stated that the respondent had on a number of occasions refused to allow access for regular safety inspections. Ms Orr stated that she had gained access to the property last week which was a relief as she was concerned at the lack of access. Ms Orr stated that the respondent had stated that she did not want to live in the property any longer and wanted to get a council property. Ms Orr stated that there were difficulties in her communication with the respondent but that she had formed the view that the due to personal reasons the respondent wanted to move to a different property. Ms Orr also stated that the respondent was not maintaining the property in a good condition.
7. Mr McKeown stated that he had bought the property as an investment. He stated that he is employed as a plumber. The respondent's failure to pay the rent at the commencement of the tenancy had caused him considerable financial difficulties. He stated that it was his intention to relet the property if an eviction order was granted. He stated that he had concerns about the respondent's conduct and her failure to allow access to the property for the purpose of carrying out repairs/upgrades. Mr McKeown stated that he had experienced difficulties in gaining access to the property to upgrade the

bathroom. He expressed concern about the respondent's maintenance of the property.

8. Mr Orr confirmed that it would take over 30 months to repay the arrears at the current rate. She stated that she had concerns that the respondent would not adhere to the arrangement.

Findings in fact and law

9. Parties entered into a tenancy agreement with a commencement date of 20 December 2023 after the applicant purchased the property.
10. The respondent has resided in the property since 2015.
11. Monthly rent due in terms of the agreement is £475.
12. Arrears as at 31 March 2025 amounted to £1230.14.
13. The respondent receives universal credit which covers the monthly rent charge.
14. The respondent had maintained monthly payments to the rent arrears of £39.35 since April 2024.
15. The respondent resides with her son who is approximately 10 years old.
16. The respondent has refused access to the property for the purpose of carrying out regular maintenance checks.
17. The applicant complied with the pre-action requirements set out in the Rent Arrears Pre Action-Requirements (Coronavirus) (Scotland) Regulations 2020.
18. Ground 12, in schedule 3 of the 2016 Act has been established.
19. It is reasonable to grant an order for eviction.

Reasons for the decision

20. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

21. The Tribunal was satisfied that having regard to the undisputed facts of the case it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

22. The Tribunal had regard to the application and the documents lodged by the applicant. The Tribunal also took into account Mr McKeown and Ms Orr's submissions at the cmd.

23. Ground 12 states:

12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2)

(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.

24. The Tribunal was satisfied on the basis of the rent accounts that had been lodged that the respondent had been in arrears of rent for a period in excess of three months.
25. In relation to question of reasonableness the Tribunal determined that the correspondence sent to the respondent complied with the pre-action requirements. The respondent had regard to the correspondence that had been lodged and accepted that the respondent had been provided with information relating to the rent arrears and guidance on how to access assistance in compliance with the pre-action requirements on multiple occasions.
26. The Tribunal was satisfied that the arrears at the property amounted to £1230.14 as at the date of the cmd. The respondent had not lodged any information which sought to demonstrate that the arrears were in any part due to issues with benefits.
27. The Tribunal took into account the information provided by Ms Orr and Mr McKeown. The Tribunal found Ms Orr and Mr McKeown to be straightforward and truthful in the information that they provided. The Tribunal noted the arrears were not particularly high and that the respondent had been maintaining payments which were gradually reducing the arrears. The Tribunal gave weight to the fact that the arrears were not increasing however against that the Tribunal gave weight to Mr McKeown's submissions that the arrears had had a significant impact on his financial circumstances. The Tribunal also gave weight to the small amount being paid to the arrears which meant that they would not be paid off for 30 months.
28. The Tribunal gave weight to the conduct of the tenancy and the information provided by the Mr McKeown and Mr Orr that there were concerns relating to the maintenance of the property which was a relevant factor in considering the reasonableness of granting an order.
29. The Tribunal gave particular weight to the fact that the respondent had not taken any steps to oppose the application or lodge a defence.
- 30.** The Tribunal gave weight to the fact that the respondent had resided in the property with her child who had lived there his whole life. In the event that the respondent had attended and opposed an order this would have been a weighty factor. However, in the absence of the respondent lodging any supporting documents or attending the hearing to give evidence to oppose an order the

Tribunal determined that on balance it was reasonable to grant an order for eviction.

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.

Mary-Claire Kelly

Legal Member/Chair

31 March 2025

Date