



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

Chamber Ref: FTS/HPC/EV/24/2827

Property at 34 Dornoch Road, North Lanarkshire, Motherwell, ML1 4QB (“the Property”)

Parties:

Mr Charles Glancey, 5 Duchess Court, Motherwell, ML1 4ZP (“the Applicant”)

**Mr Jordan Lowe, 34 Dornoch Road, North Lanarkshire, Motherwell, ML1 4QB
 (“the Respondent”)**

Tribunal Members:

Josephine Bonnar (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondents in favour of the Applicant.

Background

1. The Applicant lodged an application for an eviction order in terms of Section 51 and Grounds 12 and 12A of schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave, section 11 notice and rent statement were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer and the parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 1 April 2025 at 10am and that they were required to participate.
3. The CMD took place on 1 April 2025. The Applicant participated and was represented by Ms Lafferty. The Respondent did not participate.

Summary of Discussion at CMD

4. Ms Lafferty told the Tribunal that, to the best of their knowledge, the Respondent is still in occupation of the property. However, he has not responded to correspondence and emails about the rent arrears or access for the gas safety inspection. The letting agents have had no recent contact from him. No payments to the rent account have been made since November 2023 and the arrears are now £7325.
5. The Legal Member noted that the application, submitted in May 2024, referred to grounds 12 and 12A. However, the Notice to leave served in February 2024 only referred to ground 12. As 12A was a temporary ground which expired in March 2024, the Tribunal would not be able to consider it. Ms Lafferty confirmed that she was happy for the application to proceed in relation to ground 12 only. In response to questions about the rent arrears pre action protocol, Ms Lafferty said that the Respondent has been issued with 72 weekly rent reminder letters. In addition, 4 pre action protocol letters have been issued with all the relevant information.
6. Ms Lafferty advised the Tribunal that the Respondent is single and lives at the property alone. He previously rented another property managed by Ms Lafferty's agency and there had been no issues. He also provided his mother as a second point of contact. However, she has told them that she is not in touch with him at present. Ms Lafferty said that she doesn't know why he stopped paying rent as it hadn't happened before. He was in employment at the start of the tenancy. When the arrears occurred, they tried to arrange for UC to make direct payments to the rent account but were told that he did not have a claim for benefit. The agency has tried to get in touch with the Respondent to work with him to address the arrears, but he has not responded.
7. Mr Glancey told the Tribunal that he has five other properties. He has no pension as he is self-employed, and the rental properties are to fund his retirement in due course. The rent arrears are causing stress and financial difficulty as he has a mortgage over the property and is having to cover the payments of £275 per month from his earnings. The fixed mortgage period is due to expire, and he will have to remortgage shortly.

Findings in Fact

8. The Applicant is the owner and landlord of the property.
9. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
10. The Respondent is due to pay rent at the rate of £437.50 per month.
11. The Respondent has been in arrears of rent since August 2023. No payments have been made to the rent account since November 2023.

12. The Respondent currently owes the sum of £7325 in unpaid rent.
13. The Applicant served a Notice to leave on the Respondent on 7 February 2024.
14. The Applicant has issued information to the Respondent in compliance with the Rent Arrears Pre action Protocol.
15. The Applicant has a mortgage over the property and the arrears of rent are causing financial difficulties.
16. The Respondent has not responded to efforts made by the Applicant's agent to contact him about the arrears

Reasons for Decision

17. The application was submitted with a Notice to Leave dated 7 February 2024, together with a copy email which establishes that the Notice was sent to the Respondent on that date. The Notice states that an application to the Tribunal is to be made on ground 12, rent arrears over three consecutive months.
18. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
19. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
20. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states "(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 in 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."
21. Sub-Paragraph (4) states, "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 Minister in regulations." Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear

information relating to the terms of the tenancy agreement, the level of the arrears, the tenant's rights in relation to eviction proceedings and how the tenant can access information and advice.

22. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Respondent currently owes the sum of £7325 and that he has been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Ground 12 is therefore established.
23. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
- (a) The Tribunal is satisfied that the Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant's agent provided information at the CMD that 4 letters in compliance with the protocol have been issued.
 - (b) The Tribunal is also satisfied that there is no evidence that the arrears are attributable to a delay or failure in the payment of a relevant benefit. The Applicant's agent contacted the DWP and was told that the Respondent was not in receipt of universal credit. The Respondent was in employment at the start of the tenancy and the Applicant has no information to suggest that this position has changed.
 - (c) The arrears are substantial, and the Respondent has made no rental payments since November 2023.
 - (d) The Respondent did not participate in the CMD or notify the Tribunal that the application is opposed.
 - (e) The rent arrears are causing financial difficulty for the Applicant as he has to meet mortgage payments for the property without any rental income.
24. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act that ground 12 has been established. For the reasons outlined in paragraph 23, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

25. The Tribunal determines that an eviction order should be granted 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.

Josephine Bonnar

Ms Bonnar, Legal Member

1 April 2025