



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

Chamber Ref: FTS/HPC/EV/24/2783

Re: Property at 61 Dunottar Avenue, Coatbridge, ML5 4LN (“the Property”)

Parties:

Miss Anna Walls, 5 Crofthill Avenue, Uddingston, G71 7AF (“the Applicant”)

Miss Amanda Tripney, 61 Dunottar Avenue, Coatbridge, ML5 4LN (“the Respondent”)

Tribunal Members:

Rory Cowan (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it was reasonable to issue an eviction order.

- **Background**

By application dated 18 June 2024 (the Application), the Applicant sought an eviction order relative to the Property in terms of section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (2016 Act). With the Application, the Applicant, lodged various supporting documents which include the following:

- 1) Lease which commenced on 30 April 2020;
- 2) Copy Notice to Leave along with proof of delivery;
- 3) Section 11 Notice;
- 4) Rent Statement;
- 5) Rent Increase Notices dated 1 April 2023 and 2 April 2024; and
- 6) Pre-action correspondence.

Following acceptance of the Application, a Case Management Discussion (CMD) was fixed for 1 April 2025 to be heard by way of conference call. At that CMD a Mr Kiernan

from Premier Properties appeared and represented the Applicant. The Respondent appeared and represented herself.

- The Case Management Discussion

Mr Kiernan confirmed that the Applicant was seeking an eviction order based on rent arrears. The current arrears were £4,850 and had increased from the date of the Notice to Leave (NTL) and since the date the Application was lodged. By way of background, he explained that the Respondent first fell into arrears in 2023 and whilst she had thereafter initially maintained rental payments, she had not been able to address those initial arrears. He explained that the Applicant was initially content with that on the basis that they had a good relationship with the Respondent and she had been open and forthcoming with them. She had maintained payments initially she had missed rental payments in May and June of 2024 and only made part payment in July 2024. From then on there was a mixed pattern of payments with partial payments being received in February 2025 and March 2025 but these did not cover the ongoing rent or address the arrears. As a result of the initial missed payment the Respondent had indicated that she could no longer afford to pay the ongoing rent, and the NTL had been issued. The Respondent confirmed that all that was said by Mr Kiernan was correct. She explained that she was in receipt of Universal Credit of around £353 per month and Housing benefit of £495 per month on top, but that she had paid all she could afford to pay and she could no longer afford the rent for the Property or to address the arrears. She explained that she had made no application to see if she was entitled to any backdated housing benefit and was not awaiting any further benefits that could assist either with the arrears or the ongoing rental. It was explained that she was 43 years of age and lived in the Property with her adult son (19 years old). She explained that she was not in employment and had not worked for about 2 years. She explained that she was an unpaid carer for her father who “lived round the corner”. She also explained that, whilst her son work, his earnings were too low to allow him to contribute towards the rent or the arrears. Mr Kiernan explained that they were not aware that the Respondent was in receipt of Housing Benefit and that there had been no application to have it paid direct. He explained that the Property has a mortgage secured over it, albeit he was not able to say what the monthly payments were, but the arrears were affecting the Applicant who still had all the compliance and insurance costs to bare in addition to the mortgage. Under questioning by the Ordinary member the Respondent again confirmed that she could no longer afford to pay the ongoing rent let alone make any proposals to the arrears of rent. She explained that she had spoken to the local authority and, in essences, needed an eviction order to be rehoused.

- Findings in Fact

- 1) That the Applicant is one of the heritable proprietors of the Property.
- 2) That the Respondent, entered into a tenancy for the Property with the Applicant which commenced on 30 April 2020.
- 3) The monthly rent was initially £540.
- 4) Rent was increased effective from 30 July 2023 to £556;
- 5) Rent was increased effective from 30 July 2024 to £620;

- 6) That on or around 17 May 2024, the Respondent was in arrears of rent to the extent of £1068.
- 7) That the Respondent has been consistently in arrears since on or around October 2023.
- 8) That as at 1 April 2025, the Respondent was in arrears to the extent of £4,850.
- 9) The last payment made by the Respondent was 31 March 2025 in the sum of £200.
- 10) By Notice to Leave dated 17 May 2024 intimated by way of email as required by the terms of the lease, the Applicant gave notice to the Respondent of her intention to recover possession of the Property in terms of Ground 12 of the Private Housing (Tenancies)(Scotland) Act 2016 and confirmed that proceedings would not be raised before 17 June 2024.
- 11) That the Applicants have issued correspondence to the Respondent regarding arrears dated 19 October 2023, 3 January 2024 and 14 May 2024.
- 12) That the Respondent is not in employment.
- 13) That the Respondent is in receipt of benefits with a housing element.
- 14) That the Respondent is 43 years of age and lives in the Property with her adult son who is aged 19 years.
- 15) That the arrears have not accrued as a result of any failure or delays in the payment of benefits.
- 16) That whilst the Respondent has engaged with the Applicant's agents regarding the arrears, she cannot pay the ongoing rental for the Property or make any proposals for settlement of same.
- 17) That the Applicant has a mortgage over the Property.

- Reasons for Decision

The Applicant has complied with the notice requirements under the 2016 Act and whilst there has not been substantial compliance with the pre-action requirements (PARs) applicable to rent arrears recoveries, there has at least been some engagement with the Respondent in terms of trying to address the rent arrears as well as the ongoing rental due. Having heard from Mr Kiernan and the Respondent and having considered the relevant circumstances before them, the Tribunal was satisfied that it was reasonable to grant an Eviction Order. It was noted that the Respondent lived at the Property with her adult son who was in employment. It was noted that whilst in receipt of benefits there was no suggestion of an entitlement to any form of additional benefits that might assist with payment of her rent or the arrears. The arrears are substantial and continue to accrue. The Respondent candidly admitted that she could no longer afford to pay the ongoing rental or hope to address the arrears and was looking to social housing going forward. There have been persistent arrears since October 2023. The main factors that weighed against the Respondent were the scale of the arrears, that they continue to accrue, that there have been persistent arrears for nearly two years and that the Respondent had indicated that she could not afford to pay the ongoing rental let alone address the arrears.

The Tribunal also considered the terms of the letters issued to the Respondent. Whilst they were not in the form of the template letters produced by the Scottish Government (not that they require to be), they did specify arrears and provide some

information to the tenant on how to access support. That said, any compliance with the PARs was therefore very minimal, but in this particular case such a lack of compliance was not sufficient to outweigh the factors identified above. Had matters been more in the balance, such a lack of compliance may have made a difference.

- Decision

The Tribunal therefore decided unanimously that it was reasonable to issue an eviction order.

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.

Rory Cowan

Legal Member/Chair

01 April 2025

Date