



**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/24/4221

Property at 2A New Trows Road, Lanark, ML11 0EW (“the Property”)

Parties:

Mr Richard Coventry, Flat 1/2, 2 Lilybank Terrace, Glasgow, G12 8RX (“the Applicant”)

Mr James Muir, 2A New Trows Road, Lanark, ML11 0EW (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Gerard Darroch (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 of the 2016 Act. A tenancy agreement, Notice to leave, section 11 notice and rent statement were lodged with the application. A related application for a payment order was also submitted.
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 9 April 2025 at 10am and that they were required to participate. Prior to the CMD, the Applicant lodged an updated rent statement and request to amend the related application to reflect the increased arrears of rent.

3. The CMD took place on 9 April 2025. The Applicant was represented by Mr Fairbridge. The Respondent did not participate.

Summary of Discussion at CMD

4. The Legal Member noted that the updated rent statement had not been lodged until 4 April 2025 and had only been sent by post to the Respondent by the Tribunal on 7 April. Submissions and amendment requests are usually required to be lodged 7 days before the CMD. Mr Fairbridge advised the Tribunal that the letting agent issues an updated rent statement to the Respondent each month and he is therefore fully aware of the current level of arrears. The Tribunal confirmed that the updated statement would be allowed and also allowed the related payment application to be amended.
5. Mr Fairbridge told the Tribunal that the Respondent is still in occupation of the property. His partner, his son and his son's partner are also living there. The arrears are now £5950. The only information that the Applicant has received about the reason for the arrears is the letter lodged with the application. In this, the Respondent advised the letting agent that he had lost his job, had some problems with HMRC and hoped to sort out the arrears. Although the letting agent has made extensive efforts to engage with the Respondent, there has been no further communication from him. In response to questions from the Tribunal Mr Fairbridge said that the Respondent is estimated to be in his late forties or early fifties. The Applicant has no knowledge of any health issues although he mentioned mental health problems in the letter to the letting agent. The Applicant does not know if the Respondent is in working or if he has claimed (or is in receipt of) any benefits. It is not known whether the Respondent has approached the Local Authority for re-housing. Mr Fairbridge told the Tribunal that the Applicant has a dental practice next door to the property. As indicated in the paperwork submitted with the application, he has decided not to re-let the property when it becomes vacant.

Findings in Fact

6. The Applicant is the owner and landlord of the property.
7. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
8. The Respondent is due to pay rent at the rate of £425 per month.
9. The Respondent has been in arrears of rent since December 2023. No payments have been made to the rent account since March 2024.
10. The Respondent currently owes the sum of £5950 in unpaid rent.
11. The Applicant served a Notice to leave on the Respondent on 31 July 2024.

12. The Applicant has issued information to the Respondent in compliance with the Rent Arrears Pre action Protocol.
13. The Respondent is supposed to be residing at the property alone. Three other adults are currently living at the property with him.
14. The Applicant has a dental practice next to the property. He has concerns that the Respondent has failed to maintain the garden at the property and is keeping a pet at the property without his permission.
15. The Respondent has not responded to efforts made by the Applicant's agent to contact him about the arrears

Reasons for Decision

16. The application was submitted with a Notice to Leave dated 31 July 2024, together with post office certificate of posting and track and trace report which establish 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.
17. 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.
18. 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."
19. 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."
20. 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.

21. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Respondent currently owes the sum of £5950 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.
22. 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 submitted copies of letters issued to the Respondent in compliance with the protocol.
 - (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 Respondent has failed to engage with the Applicant, his agent and the Tribunal. His current circumstances are unknown.
 - (c) The arrears are substantial, and the Respondent has made no rental payments since March 2024.
 - (d) The Respondent did not participate in the CMD or notify the Tribunal that the application is opposed.
 - (e) The Applicant has other concerns about the conduct of the tenancy. The property is occupied by four people, although it was let to the Respondent on the basis that he would be living there alone. The Respondent is also keeping a pet at the property without the consent of the Applicant.
23. 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 22, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

24. 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, Legal Member

9 April 2025