



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 18 and 19 of the Housing (Scotland) Act 1988 (“the Act”) and Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/24/2509

Property at Top Right 62 Back Sneddon Street, Paisley, PA3 2BY

Applicant: Mr Alan Sneddon residing at 9, St.Andrew’s Road, Renfrew, PA4 0SN

Respondent: Mr Derek Gow residing at Top Right 62 Back Sneddon Street, Paisley, PA3 2BY

Tribunal Members: Karen Moore (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory ground being established and the statutory procedure having been carried out, it is reasonable to grant the Order sought and so the Tribunal granted the Order.

Background

1. By application received on 3 June 2024 (“the Application”), the Applicant applied to the Tribunal for an Order for possession of the Property based on rent arrears. The Application comprised copy Notice to Quit and copy Section 18 Notice with proof of service, copy short assured tenancy agreement with relevant AT5 between the Parties, copy rent statement showing arrears of £6,198.53, copy of pre-action regulation letters and copy notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Renfrewshire Council, being the relevant local authority.
2. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 15 October 2025 at 14.00 by telephone conference.

CMDs

3. A CMD took place on 15 October 2025 at 14.00 by telephone. Neither the Applicant nor the Respondent took part. The Tribunal noted that the CMD had been intimated to the Parties and to the Respondent, in particular, by Sheriff Officer. Neither Party appeared and so the Tribunal dismissed the Application.
4. By application dated 28 October 2024, the Applicant applied for recall of the decision to dismiss. The Tribunal granted the recall application and recalled its decision to dismiss. A further CMD was fixed for 2 May 2025 at 10.00 by telephone conference and intimated to the Parties.
5. The CMD took place on 2 May 2025 at 10.00 by telephone. The Applicant, Mr. Sneddon, took part and was not represented. The Respondent, Mr. Gow, did not take part and was not represented. He did not submit written representations.
6. The Tribunal explained the purpose of the CMD and that advised that it was satisfied that the statutory procedure for the Application had been carried out correctly. The Tribunal explained that it was required also to consider the reasonableness of the Application.
7. The Tribunal asked Mr. Sneddon to explain the way in which rent arrears had accrued in respect of the rent statement. Mr. Sneddon explained that Mr. Gow has been in rent arrears since the tenancy started in 2013 and that the arrears up until 2019 had been written off. He explained that the greater portion of the rent has been paid by state benefits for most of the tenancy but, as Mr. Gow always fails to pay the balance of the rent, arrears accrue. Mr. Sneddon explained that, from time to time Mr. Gow has been in employment and has not be entitled to benefits. During these times, no rent was paid by Mr. Gow and so the arrears are accruing further. Mr. Sneddon advised that currently £358.53 is paid by benefits and as the shortfall is not paid by Mr. Gow, the arrears now stand at £7,204.70. He stated that attempts to contact Mr. Gow and to arrange payment plans have not been successful and that it was he and not Mr. Gow who pursued and obtained the Covid grant.
8. With regard to his own personal circumstances, Mr. Sneddon stated that he has 17 rental properties. He stated that he has a mortgage on the Property which is currently being repaid at £70.00 per month and that this amount is due to increase to £280.00 per month when the current low interest deal ends. In addition, there are factoring accounts of £300.00 -£400.00 per quarter.

9. With regard to Mr. Gow's personal circumstances, Mr. Sneddon stated that as far as he is aware, Mr. Gow resides with his adult son. His understanding is that Mr. Gow has had casual work as a gardener and in retail.

Findings in Fact

10. From the Application and the CMD, the Tribunal made the following findings in fact: -
- i) There is a short assured tenancy of the Property between the Parties at a monthly rent of £450.00;
 - ii) A valid Section 18 Notice and a valid Notice to Quit were served;
 - iii) The Respondent has not vacated the Property;
 - iv) The Respondent does not oppose the Application;
 - v) The Respondent accrued rent arrears of £6,198.53 to the date of the lodging of the Application;
 - vi) Rent arrears continue to accrue and currently stand at £7,204.70;
 - vii) The Respondent makes no attempt to make payment of the rent;
 - viii) State benefits meet £358.53 of the rent;
 - ix) The Respondent makes no attempts to pay the shortfall of rent and failed to make any payments of rent when he was employed and not entitled to benefits;
 - x) The Applicant relies on the rent as source of income and to meet the cost of the mortgage and other financial commitments on the Property;
 - xi) The Respondent is single person and has no dependent children residing with him.

Decision and Reasons for Decision

11. The Tribunal had regard to all the information before it and to its Findings in Fact.
12. Having found that the eviction Ground has been met, the Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussionincluding making a decision*". The Tribunal took the view that it had sufficient information to make a decision and so proceeded to determine the Application.
13. The statutory ground and procedure being established, and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order.
14. The Tribunal had regard to the circumstances of the Parties.

15. The Tribunal must establish, consider and properly weigh the “whole of the circumstances in which the application is made” (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession.
16. The Tribunal then looked to balance the rights and interests of both parties.
17. The Tribunal accepted that the Applicant relies on the rental income in order to meet the running costs of the Property. The Tribunal had regard to the fact that the Respondent is in significant rent arrears and has made no attempt to address the situation. The Tribunal took the view that the level of arrears is not tenable for either Party
18. With regard to the Respondent’s position, the Tribunal note that the Application was not opposed and that, if evicted and made homeless, the Respondent and his adult son would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance on homelessness.
19. Accordingly, the Tribunal was satisfied that it is 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.

Karen Moore

02/05/25

Legal Member/Chair

Date

