

**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/24/3754

**Re: Property at 20/3 Clovenstone Gardens, Edinburgh, EH14 3EX (“the
Property”)**

Parties:

**Ms Sania Akram, 158 Carrick Knowe Drive, Edinburgh, EH12 7EW (“the
Applicant”)**

**Ms Julie Burns, 20/3 Clovenstone Gardens, Edinburgh, EH14 3EX (“the
Respondent”)**

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Ann Moore (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.**

Background

1. By application dated 15 August 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 in advance of the case management discussion (“cmd”):
 - Copy tenancy agreement
 - Notice to leave with proof of service
 - Section 11 notice to local authority with proof of delivery

- Rent statement
3. A case management discussion (“cmd”) took place via teleconference on 22 April 2025.

Case management discussion (“cmd”) – teleconference – 22 April 2025

4. The applicant was represented by Mr Nisbet, solicitor, Nisbets Solicitors. The respondent was not present or represented. The Tribunal was satisfied that the respondent had been properly notified of the Tribunal in terms of rule 24.1 and proceeded with the Tribunal in her absence in terms of rule 29.
5. Mr Nisbet sought an order for eviction. He stated that the respondent had not paid any rent since September 2023. The arrears when the application was submitted in August 2024 had amounted to £8000. They had since increased by an additional £5,600. Mr Nisbet stated that the applicant had contacted the respondent to advise that they were thinking of selling the property around September 2023. Shortly afterwards the respondent had stopped paying rent. Mr Nisbet stated that the respondent had previously been receiving benefits however these had been paid to her directly rather than to the applicant. The applicant had no information about whether the respondent was currently receiving benefits. Mr Nisbet stated that the applicant and members of her family had made numerous attempts to contact the respondent to discuss the arrears however she had not engaged and had blocked their telephone numbers. As far as the applicant was aware the respondent resided in the property with a child.
6. Mr Nisbet stated that there was an outstanding secured loan over the property with monthly repayments of £427. Due to the rent arrears the applicant was covering the cost of the loan. Mr Nisbet stated that the respondent had resided in the property before the current tenancy agreement had been signed. He stated that the agreement had been signed as the applicant had wished to increase the rent.

Findings in fact and law

7. Parties entered into a tenancy agreement with a commencement date of 1 February 2023.
8. Monthly rent due in terms of the agreement is £675.

9. Monthly rent increased to £800 from May 2023.
10. The respondent has not paid rent since September 2023.
11. Arrears as at 22 April 2025 are £13,600.
12. The respondent has not lodged any opposition or sought to defend the present application.
13. The respondent continues to reside in the property.
14. Ground 12, in schedule 3 of the 2016 Act has been established.

Reasons for the decision

15. 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.

16. 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.

17. 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.

18. The Tribunal had regard to the application, the documents lodged by the applicant and oral submissions at the cmd.
19. The Tribunal was satisfied that as evidenced by the rent statement the arrears due at the date the application had been submitted amounted to £8000. The Tribunal accepted the unopposed submissions that the respondent had not paid any rent since September 2023 and that arrears continued to rise. The Tribunal was satisfied that the respondent had been in arrears of rent for a period in excess of three months.
20. In relation to question of reasonableness the Tribunal was satisfied that the arrears at the property amounted to £13,600 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.
21. The Tribunal took into account the information provided by Mr Nisbet. The Tribunal noted the high level of arrears, which continued to rise and that no contact or payment had been made by the respondent for a considerable period of time. The Tribunal also gave weight to the impact that the ongoing arrears had on the applicant who was covering the cost of the mortgage.
22. The Tribunal gave particular weight to the fact that the respondent had not taken any steps to oppose the application or lodge a defence.
23. In relation to the pre-action protocol the applicant had not submitted correspondence to show that they had complied with the protocol. The Tribunal noted Mr Nisbet's submission that the applicants had made attempts to discuss the arrears with the respondents however they had failed to provide documentary evidence of their compliance with the pre-action protocol. The Tribunal also took into account that the respondent had been residing in the property with her child and had previously been in receipt of benefits. In the

absence of any opposition to the application and taking into account the high level of arrears the Tribunal considered that these factors did not outweigh the factors in favour of granting an order.

24. In the foregoing circumstances the Tribunal determined that 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

22 April 2025 _____
Date