



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/24/4197

Re: Property at 16 Fortissat Avenue, Shotts, ML7 4EW (“the Property”)

Parties:

Mr Umran Ali, 11 Southline View, Wishaw, ML2 0NH (“the Applicant”)

Mr Craig Williams, 16 Fortisat Avenue, Shotts, ML7 4EW (“the Respondent”)

Tribunal Members:

Andrew Cowan (Legal Member) and Melanie Booth (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.

Background

1. This is an application for an eviction order in regard to a Private Residential Tenancy ("PRT") made in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (as amended) ("the Rules"). The PRT is between the Parties and relates to the Property. The tenancy commenced on 20th December 2023.
2. The application relies upon a Notice to Leave dated 7th August 2024, issued in terms of section 52 of the Private Housing (Tenancies) (Scotland) Act 2016. The notice was served upon the Respondent email on 7th August 2024, all in accordance with the provisions of the PRT. The Notice relied upon Ground 12 of Schedule 3 of Part 1 of the 2016 Act, in that "the tenant has been in rent arrears for three or more consecutive months". The Notice to Leave intimated that an application to the Tribunal would not be made before 7th September 2024.

3. The Application papers included evidence that a section 11 notice, in terms of the Homelessness Etc. (Scotland) Act 2003, had been served upon North Lanarkshire Council by email on 6th August 2024.
4. The Applicant lodged, as part of the Application, a rent statement which showed that the Respondent had rent arrears due under the terms of the tenancy in the sum of £2600 as at 12th September 2024.
5. The Application papers also included a number of letters from the Applicants' letting agents addressed to the Respondent during the period May 2024 to August 2024. Those letters highlighted the level of rent arrears due by the Respondent and invited the Respondent to contact the letting agents to make proposals to clear the arrears of rent by instalments.

Case Management Discussion

6. A Case Management Discussion ("CMD") took place by teleconference on 2nd May 2025. The Applicant was represented at the CMD by Miss Lisa Scott and Mr Gary Murray of Empire Property. letting agents.
7. The Respondent did not join the CMD call. The Tribunal were satisfied that the Application, and details of the CMD, had been intimated upon the Respondent by Sheriff Officers on 10th March 2025. The Respondent has not made any written representations to the Tribunal in advance of the CMD. The Tribunal was satisfied that the Respondent had been given reasonable notice of the date, time and place of the CMD and that the requirements of rule 24(1) of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Procedure Rules") had been duly complied with. In the circumstances the Tribunal proceeded with the application in accordance with rule 29 of those Procedure Rules.

Findings in Fact and Law

8. The Applicant let the Property to the Respondent under a Private Residential Tenancy with commencement on 20th December 2023 ("the Tenancy"). The rent charged under the tenancy agreement is £650 per month.
9. The Respondent last made a payment towards the rent due, under the terms of the tenancy agreement, in the sum of £700 on 28th May 2024.
10. From 28th May 2024 the Respondent has failed to make any payments towards ongoing monthly rent or towards the rent arrears accrued.

11. By 12th September 2024 the Respondent had accrued arrears of rent in the sum of £2600.
12. The Applicant has issued a Notice to Leave dated 7th August 2024 in terms of section 52 of the Private Housing (Tenancies) (Scotland) Act 2016. The notice was served upon the Respondent by email dated 7th August 2024.
13. The Applicant has raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying on Ground 12 of Schedule 3 of Part 1 of the 2016 Act, in terms of an Application to the Tribunal dated 10th September 2024.
14. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon North Lanarkshire Council on the Applicant's behalf on 6th August 2024.
15. The Respondent continues to occupy the Property.
16. As at the date of the CMD the rent arrears due and owing by the Respondent to the Applicant are £7800.
17. The Applicant's letting agents have made reasonable efforts to engage with the Respondent in relation to the Respondent's failure to pay the rent due. The Respondent has failed to respond to the Applicant's letting agents on these matters in any substantive manner.
18. It is reasonable to issue an eviction order.

Reasons for Decision

19. The Tribunal were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondent.
20. The Tribunal were satisfied that it had had sufficient information upon which to make a decision at the CMD, having considered the written and oral representations made on behalf of the Applicant. The Rules allow, at rule 17(4), for a decision to be made at a CMD as at a hearing before a full panel of the Tribunal.
21. Ground 12 of Schedule 3 to the 2016 Act (as amended and applying to this application) states that:
 - (1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months....
and that...
 - (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.

22. The Tribunal were satisfied, on the uncontested evidence provided, that the Respondent has been in arrears of rent for three or more months. Miss Scott explained to the Tribunal that the Respondent has not paid his rent since May 2024 and has accrued arrears of £7800 as at the date of this hearing. On that basis the Tribunal determined that paragraph 3(1)(a) of Ground 12 was satisfied.

23. The Tribunal then considered whether it was reasonable to issue an eviction order under paragraph 3(2) of Ground 12.

24. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties

25. In this case the tribunal finds that it is reasonable to grant the order.

26. At the CMD the Applicants representative advised the tribunal that the Respondent stopped paying rent due in terms of the tenancy agreement from May 2024. He has accrued significant arrears of rent in the sum of £7800 as at the date of the CMD. The Applicant's letting agents have written to the Respondent reminding him of his obligation to pay rent and to request payment of rent arrears which have accrued. The Respondent has not engaged with the Applicant or his letting agents in relation to these rent arrears and has not made any proposal to pay current rent or the arrears of rent which have accrued. The Applicant wishes to recover possession of the property because of the level of rent arrears which have been accrued by the Respondent. The Respondent has not made any payments of rent for over 11 months and the Applicant cannot afford to allow the respondent to continue to live in the property whilst no rent has been paid.

27. Mr Murray confirmed to the Tribunal that he had recently visited the Property. The Applicant was not available to discuss the rent arrears. Mr Murry was satisfied, from an external inspection, that the Respondent continues to reside in the Property.

28. Miss Scott advised the Tribunal that it is believed that the Respondent lives alone in the Property. It is understood that the Respondent is in full time employment.

29. The Tribunal consider that it is reasonable to grant the eviction order. In reaching a decision on whether it was reasonable to grant the order sought the Tribunal took account of the fact that the Respondent has not submitted written representations to the Tribunal and has not appeared at the CMD. It is

not reasonable to require the Applicant to maintain the tenancy whilst no rent is paid by the Respondent.

30. The balance of reasonableness is weighted towards the Applicant.

31. The Tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

Decision

32. In all the circumstances, the Tribunal grant an order against the Respondent for eviction from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.

33. The decision of the Tribunal is unanimous.

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.

Andrew Cowan

2nd May 2025

Legal Member/Chair

Date