

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/24/4730

Re: Property at Flat 9, 5 The Terrace, Ardbeg, Isle of Bute, PA20 0NP (“the Property”)

Parties:

Mr Peter Slepokura, Flat 21, Clevedown, Barons Down Road, Lewes, BN7 1EY (“the Applicant”)

Mr John Dobson, Flat 9, 5 The Terrace, Ardbeg, Isle of Bute, PA20 0NP (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

BACKGROUND

1. By Lease dated 15 September 2016 the Applicant let the property to the Respondent. The tenancy is an Assured Tenancy in terms of the Housing (Scotland) Act 1988 (“the 1988 Act”).
2. Rent is payable at the rate of £350.00 per month.
3. The Respondent fell into arrears of rent.
4. The Respondent refused access to the property to tradesman appointed by the Applicant to enable necessary work to be done, including gas and electricity safety inspections.

5. A Notice in terms of s19 of the 1988 Act – commonly referred to as a form AT6 – dated 30 July 2024 was served upon the Respondent. This Notice intimated that recovery of possession was sought under the following grounds of Schedule 5 of the 1988 Act: -
 - Ground 11 – Tenant has persistently delayed in paying rent lawfully due.
 - Ground 12 – Rent lawfully due from the tenant is unpaid on the date on which proceedings for possession were begun.
 - Ground 13 – Breach of an obligation of the tenancy.
 - Ground 15 – Anti Social or criminal behaviour in or in the vicinity of the Property.
 - Ground 16 – Condition of furniture provided has deteriorated owing to ill treatment by the tenant or other persons.
6. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
7. On 14 October 2024 the Applicant presented two separate Applications to the Tribunal, one seeking an order for eviction (EV/24/4730) and one seeking an order for payment of rent arrears (CV/24/4731).
8. As at the date of the Applications to the Tribunal rent arrears amounted to £7,755.60.
9. On 15 May 2025, however, the Applicants representative forwarded an updated rent statement to the Tribunal and requested that the amount claimed by way of rent arrears be amended. The amount due at that time was £10,555.60.
10. The correspondence from the Solicitors for the Applicant advised that they had attempted to advise the Respondent of the Application to vary the amount claimed but had not been successful in doing so. The telephone number previously held by the Applicant for the Respondent no longer connects any calls. No up to date / live email addresses were known for the Respondent.
11. As at the date of the Case Management Discussion on 2 June 2025 rent arrears were stated to amount to £10,905.00.

THE CASE MANAGEMENT DISCUSSION

12. The Applicant participated in the Case Management Discussion. The Applicant was represented by Mrs P Ward of Kee Solicitors, Glasgow. The Respondent did not participate in the Case Management Discussion. The Tribunal, however, was in receipt of a certificate of intimation by Sheriff Officers confirming that the proceedings had been intimated upon the Respondent. In the circumstances, the Tribunal was satisfied in terms of Rule 24 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the FTT Regs”) that the respondent had received intimation of the date and time of the Case Management Discussion

and considered that it was appropriate to proceed with the Case Management Discussion in the absence of the Respondent in accordance with Rule 29 of the FTT regs.

13. Mrs Ward advised that she was seeking, on behalf of her client, an order for eviction and an order for payment in relation to the arrears of rent.

Eviction

14. In relation to the request for an order for eviction, the Tribunal sought clarification as to the grounds upon which an order was sought. The Application to the Tribunal contained the Form AT6 which had been served on the Respondent and a paper apart / statement of claim submitted in support of the applications to the Tribunal.. The paper apart / statement of claim provided relevant information in relation to arrears of rent (grounds 11 and 12) and also the refusal of the Respondent to allow access to the Property to tradesman instructed by the Applicant (ground 13). There did not appear to be any information provided in relation to grounds 15 or 16.
15. In relation to ground 15 – Anti Social or criminal behaviour in or in the vicinity of the Property – there did not appear to be any information to support that ground.
16. In relation to ground 16 – the condition of furniture provided has deteriorated owing to ill treatment by the tenant – Mrs Ward referred to paragraph 3 of the paper apart / statement of claim which had a sentence saying “*He has removed radiators and caused damage to the Property.....*” In support of that, however, the only information available was a suggestion that neighbours had told the Applicant that radiators had been removed from the walls within the Property. No further information was available. No statements nor Affidavits from any such neighbours were provided.
17. Mrs Ward confirmed, for the avoidance of any doubt, that the Applicant was content to restrict his Application for an eviction order to grounds 11, 12 and 13, with ground 13 being restricted to the refusal of the Respondent to allow access to tradesmen, something the Applicant himself was able to confirm.
18. The Applicant provided an up-to-date rent statement showing there have been arrears of rent consistently since the tenancy commenced. Since January 2021, however, the arrears have increased significantly.
- As at 24 January 2021 arrears of rent amounted to £1,056.80.
 - As at 24 January 2022 arrears of rent amounted to £2,396.75.
 - As at 24 January 2023 arrears of rent amounted to £3,696.75.
 - As at 24 January 2024 arrears of rent amounted to £6,483.75.
 - As at 24 January 2025 arrears of rent amounted to £9,505.60.
 - As at 15 May 2025, the date upon which an amendment of the sum claimed was made, arrears of rent amounted to £10,555.60.

19. Correspondence had been forwarded to the Respondent advising him of the arrears in compliance with the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
20. The Tribunal enquired in relation to the personal circumstances of the Respondent insofar as those were known to the Applicant. The Tribunal was advised that it is believed the Respondent has some family in Glasgow but no one else resides at the Property. The Applicant has tried to contact other persons connected to the Respondent but without success. The Applicant did so as he had some concerns for the Respondent personally having regard to the condition of the Property and certain reports he had received from neighbours. The Applicant has not been successful in contacting anyone and has received no contact from, for example, any Community Psychiatric Nurse, Social Worker or any other such person on behalf of the Respondent.
21. The Respondent was previously receiving benefits which paid a portion of the rent due for the property. The Applicant had previously made an application to the local authority for these benefits to be paid to him direct. That application was granted. The last payment received, however, was as far back as 30 July 2024. No further payments had been received either by way of benefits nor from the Respondent directly. When payments were being received directly from the local authority these payments only covered part of the rent due. The Respondent did not make any payments in relation to the balance due each month.
22. The Respondent is believed to still be residing at the Property. Neighbours have been maintaining contact with the Applicant and the information available suggest the Respondent is still residing there. The Applicant has also had contact from the property factors and the local authority Environmental Health Department due to certain concerns which have arisen in relation to the Property.
23. The Respondent is believed to be in his late 60's. No further information is available in relation to his personal circumstances.
24. On the absence of any appearance by or on behalf of the Respondent, and on the basis of the information available, which indicated there have been persistent arrears of rent which now amount to in excess of £10,000.00, the Tribunal granted an order for eviction.

Rent Arrears

25. The Applicant is in arrears of rent. As at the date of the application to the Tribunal arrears amounted to £7,755.60.00. As at 15 May 2025 the arrears amounted to £10,555.60. The arrears had risen again as at the date of the Case Management Discussion.
26. The Applicant had timeously presented submissions to the Tribunal seeking a variation of the amount claimed by increasing it to £10,555.60. The Tribunal allowed the sum to be amended and thereafter granted an order for payment.

27. Having regard to the arrears of rent outstanding, and the fact an Application was made to the Tribunal more than 14 days prior to the Case Management Discussion, the Tribunal allowed the amount claimed to be amended and, there being no appearance by or on behalf of the Respondent, and therefore no opposition to the same, granted an order for payment in the sum of £10,555.60 by the Respondent to the Applicant.

FINDINGS IN FACT

28. The Tribunal found the following facts to be established:-

- a) By Lease dated 15 September 2016 the Applicant let the Property to the Respondent.
- b) The tenancy is an Assured Tenancy in terms of the the 1988 Act.
- c) Rent is payable at the rate of £350.00 per month.
- d) The Respondent fell into arrears of rent.
- e) The Respondent refused access to the property to tradesman appointed by the Applicant to enable necessary work to be done, including gas and electricity safety inspections.
- f) A Notice in terms of s19 of the 1988 Act dated 30 July 2024 was served upon the Respondent. This Notice intimated that recovery of possession was sought under the following grounds of Schedule 5 of the 1988 Act: -
 - Ground 11
 - Ground 12
 - Ground 13
 - Ground 15
 - Ground 16
- g) A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
- h) As at the date of the Applications to the Tribunal rent arrears amounted to £7,755.60.
- i) As at 15th May 2025 rent arrears amounted to £10,555.60.
- j) As at the date of the Case Management Discussion on 2 June 2025 rent arrears were stated to amount to £10,905.00.
- k) There are long standing, persistent arrears of rent.
- l) The arrears are not due to any delay or failure in the relevant benefit.

REASONS FOR DECISION

29. The Applicant provided an up to date rent statement showing there has been arrears of rent consistently since the tenancy commenced. Since January 2021, however, the arrears have increased significantly. As at 24 January 2021 arrears of rent amounted to £1,056.80.

- As at 24 January 2022 arrears of rent amounted to £2,396.75.
- As at 24 January 2023 arrears of rent amounted to £3,696.75.
- As at 24 January 2024 arrears of rent amounted to £6,483.75.
- As at 24 January 2025 arrears of rent amounted to £9,505.60.
- As at 15 May 2025, the date upon which an amendment of the sum claimed was made, arrears of rent amounted to £10,555.60.

30. In the circumstances there are long standing, persistent arrears of rent. No explanation was provided in relation to the arrears. On the basis of information that housing benefit was previously paid directly to the Applicant, but no such payments have been made since July 2024, there is no information before the Tribunal to suggest that any arrears were due to a delay or failure in the payment of any relevant benefit.
31. In the circumstances, in the absence of any information being provided to the Tribunal, the Tribunal concluded that it was reasonable to grant an order for eviction.
32. On the basis of the information provided, the Tribunal concluded that a sum of not less than £10,555.60 was due by the Respondent to the Applicant.

DECISION

The Tribunal granted an order against the Respondent for possession of the Property under section 18 and grounds 11, 12 and 13 of Schedule 5 of the Housing (Scotland) Act 1988.

Order not to be executed prior to 12 noon on 9th July 2025

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.

V. Crawford

Legal Member/Chair

Date: 2 June 2025