



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/24/3723

Re: Property at 1/2 9A Lochburn Road, Glasgow, G20 9AE (“the Property”)

Parties:

Kyles Property Investment LTD, 19 Moncrieff Avenue, Lenzie, G66 4NL (“the Applicant”)

Mr Nicholas Richardson, 1/2 9A Lochburn Road, Glasgow, G20 9AE (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Sandra Brydon (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 13 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 application was conjoined with application reference FTS/HPC/CV/4072 seeking an order for payment of arrears.
3. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Letter to the respondent with Notice to Leave and Guidance dated 10 November 2023 with proof of delivery
 - Rent statements

- Pre action emails to the respondent.
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. A case management discussion (“cmd”) was assigned for 28 May 2025.

Case management discussion – 28 May 2025- teleconference

5. The applicant was represented by Ms McCoy, letting agent from Regent Property Glasgow Ltd. The respondent was not present or represented. The Tribunal was satisfied that the respondent had received proper notice of the cmd and proceeded with the cmd in their absence in terms of rule 29.
6. Ms McCoy referred to an updated rent statement that had been submitted prior to the cmd which showed that no rent had been paid by the respondent since June 2024 and that arrears had increased to £9,973.88. She stated that the respondent resided alone in the property. Ms McCoy referred to emails that had been submitted which showed that efforts had been made to enter into an arrangement with the respondent. She stated that she had spoken to the respondent in January 2025 and was aware that he had sought housing advice. She stated that he had told her that he was hoping to obtain a local authority house however he required an eviction order to be eligible. Ms McCoy stated that the applicant has a small portfolio of properties and had been financially impacted by the level of the arrears. Ms McCoy stated that the respondent had been in and out of employment. He had been advised to seek advice regarding benefits however nothing had been received from the DWP regarding a claim for benefits.
7. Ms McCoy confirmed that Sofia Semple, the respondent’s grandmother, had signed the tenancy agreement as a guarantor.

Findings in fact and law

8. Parties entered into a tenancy agreement with a commencement date of 20 January 2023.
9. Monthly rent due in terms of the agreement is £745.
10. Arrears as at 28 May 2025 amounted to £9973.88.

11. The respondent has not made any payments towards the rent or arrears since June 2024.
12. The respondent resides alone in the tenancy.
13. The applicant complied with the pre-action requirements set out in the Rent Arrears Pre Action-Requirements (Coronavirus) (Scotland) Regulations 2020.
14. A valid notice to leave was served on the respondent.
15. Ground 12, in schedule 3 of the 2016 Act has been established.

Reasons for the decision

16. 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.

17. 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' interests to do so at the time without the need for a further hearing.
18. 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

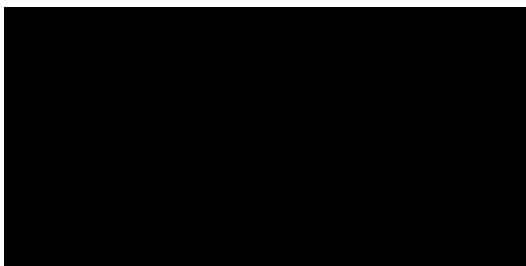
(b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.

19. The Tribunal had regard to the application and the documents lodged by the applicant. The Tribunal also took into account Ms McCoy's submissions at the cmd.
20. The Tribunal was satisfied on the basis of the rent accounts that had been lodged that the respondent had been in arrears of rent for a period in excess of three months.
21. In relation to question of reasonableness the Tribunal determined that the correspondence sent to the respondent complied with the pre-action requirements. The respondent had regard to the email correspondence that had been lodged and accepted that the respondent had been provided with information relating to the rent arrears and guidance on how to access assistance in compliance with the pre-action requirements on multiple occasions.
22. The Tribunal was satisfied that the arrears at the property amounted to £9973.88 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.

23. The Tribunal took into account the information provided by Ms McCoy. 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 fact that the increasing arrears had an impact on the applicants and the respondent's grandmother, Sofia Semple who acted as his guarantor in the tenancy agreement and may be jointly liable for the outstanding amount.
24. The Tribunal gave particular weight to the fact that the respondent had not taken any steps to oppose the application or lodge a defence.
25. The Tribunal gave weight to the fact that the respondent resided in the property alone and had indicated to Ms McCoy that he had obtained advice on his housing options.
26. 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.



Legal Member/Chair

28 May 2025
Date