



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 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/24/5288

Re: Property at 22/5 South Gyle Park, Edinburgh, EH12 9EL (“the Property”)

Parties:

Mr Kenneth Whittle, 23 East Clapperfield, Edinburgh, EH16 6TU (“the Applicant”)

Ms Alana Skeldon, 22/5 South Gyle Park, Edinburgh, EH12 9EL (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession of the property be granted.

Background

1. By application received on 14 November 2024, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Grounds 12 (rent arrears over 3 consecutive months) of Schedule 3 to the 2016 Act. Supporting documentation was submitted in respect of the application, including a copy of the Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same, a Rent Statement showing the balance of rent arrears owing at the time of the Notice to Leave being served of £3,960.90 and £4,782.70 as at the date of application and evidence regarding the ‘pre-action protocol’. An application for payment of the rent arrears was submitted at the same time and was conjoined with this application. Both applications proceeded together to Case Management Discussion.

2. Following initial procedure, on 12 December 2024, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. A Case Management Discussion ("CMD") was fixed for 13 June 2025. The application and details of the CMD fixed were served on the Respondent by Sheriff Officer on 25 March 2025. In terms of said notification, the Respondent was given an opportunity to lodge written representations by 12 April 2024. No representations were lodged prior to the CMD.
4. On 9 June 2025, the Applicant's representative lodged an updated rent statement showing an outstanding balance of £9,700 at the end of May 2025.

Case Management Discussion

5. The CMD took place by telephone conference call on 13 June 2025 at 10am. It was attended only by the Applicant's representative, Mr David Gray of Gilson Gray LLP. The Respondent did not attend. The Tribunal delayed the commencement of the CMD for 5 minutes to allow an opportunity for the Respondent to join late but she did not do so.
6. Following introductions and introductory remarks by the Legal Member, Mr Gray was asked if there had been any recent communication from the Respondent. He confirmed that the last contact was between the Applicant's letting agents and the Respondent in January 2025 but that was only to do with the cancellation by the Respondent of an inspection which had been due to take place at the Property. The letting agents had spoken to the Respondent in December 2024 to make her aware of these proceedings and she had indicated at that time that she would leave the Property. However, she has since failed to do so. Mr Gray mentioned that the letting agents had extensively communicated with the Respondent regarding the rent arrears and had issued all the pre-action protocol documentation required. However, the Respondent has not engaged with them or done anything to try and resolve the arrears.
7. Mr Gray then addressed the eviction application in more detail and reference was made to the supporting documentation already lodged. Eviction is sought under Ground 12 on the basis that there were more than three consecutive months of rent arrears. There have been no payments towards rent made since June 2024 and the arrears currently amount to around £10,500 as the further rental payment due on 1 June 2025 has not been paid either. There appears to be no intention on the part of the Respondent to deal with the arrears and the current situation is unsustainable. Mr Gray was asked about the email from the Respondent to the letting agents dated 19 June 2024 which has been produced with the papers, amongst the pre-action protocol correspondence. Mr Gray indicated that he was not aware of any further details regarding the background circumstances which the Respondent had raised in that email. The letting agents had continued to try and engage with the Respondent but there was no further update from her on her personal circumstances or in respect of the rent

arrears. The letting agents are concerned regarding the possible condition of the Property as they have been unable to obtain access from the Respondent for some time. Three separate inspection appointments had been made but then cancelled by the Respondent. As to the Respondent's circumstances, Mr Gray stated that she took on the tenancy on 12 May 2020 as the sole occupant and is understood to reside alone. She is 42 years old and is understood by the letting agents still to be in employment. They are unaware of any possible benefits entitlement or any disabilities or other health issues. The only personal issues of which they are aware is from the information contained in the Respondent's email to them of June 2024. Rent is now unpaid for a whole year, without explanation or engagement from the Respondent. Mr Gray confirmed that they were unaware of the Respondent having sought any advice from the local authority regarding housing options. The local authority had acknowledged the Section 11 Notice served on them in connection with these proceedings but there had been no contact from them over and above that.

8. As to the Applicant's circumstances, he is 65 years old and his only source of income currently is from his rental properties of which he has eight in the Edinburgh area, all of which are tenanted. His income from his rental properties is £40,000 before tax and he has total mortgage liability amounting to around £1 million pounds. He is currently on quite favourable fixed rate mortgage deals but they expire later this year which is going to have a big impact on his finances. He will qualify for his state pension later this year too and long-term, he may have to review his property portfolio and start selling-up, as it may be uneconomic for him to continue renting out. As rent has not been paid by the Respondent now for a year, the Applicant is currently having to meet financial commitments in respect of this Property from his own pocket, which is clearly unsustainable for much longer.
9. In all the circumstances, Mr Gray submitted that it was reasonable for the Tribunal to grant the eviction order sought.
10. The Tribunal conferred and, having considered the application, confirmed that they were satisfied that the ground for eviction was met and also that it was reasonable to grant the order in all the circumstances. Mr Gray was thanked for his attendance and the CMD concluded.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the sole tenant of the Property by virtue of a Private Residential Tenancy which commenced on 12 May 2020.
3. The rent due in respect of the tenancy was originally £695 per calendar month but has been increased during the tenancy to the current rental of £819.50.

4. There was a background of some minimal rental arrears dating back several years but arrears accrued significantly from June 2024 when the rent payments stopped altogether.
5. The last payment towards rent was £752 on 16 May 2024.
6. Arrears amounted to £3,960.90 by the time the Notice to Leave was served in October 2024, amounted to £4,782.70 when this application was lodged, and £9,700 at the end of May 2025.
7. The arrears currently owing amount to in or around £10,500.
8. The Applicant's letting agents have sought to engage with the Respondent throughout concerning the rent arrears and issued several communications to her in respect of the 'pre-action protocol'.
9. The Respondent has not engaged with the Applicant's agents regarding the arrears situation since June 2024, nor sought to resolve the arrears.
10. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by email on 10 October 2024, in terms of the tenancy agreement.
11. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 10 November 2024.
12. The Tribunal Application was submitted on 14 November 2024.
13. The Respondent has remained in occupation of the Property.
14. The Respondent has been called upon to make payment of the rental arrears or enter into a satisfactory payment arrangement but has failed to do so.
15. The Respondent has been in arrears of rent for three or more consecutive months.
16. There is no indication that the arrears have arisen wholly or partly as a result of a failure or delay in the payment of relevant benefits.
17. The Respondent did not submit any representations nor attend the CMD.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation and to the oral representations at the CMD by Mr Gray on behalf of the Applicant.

2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the correct period of notice had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.
3. The Tribunal considered the ground of eviction relied upon in this application, namely Ground 12 was satisfied in that all requisite elements of that ground had been met. The Tribunal was satisfied that there were substantial rent arrears amounting to in excess of £10,500 and that the rent had been continuously in arrears for a lengthy period of time, no rent having been paid since May 2024.
4. As to reasonableness, all the factors mentioned above in the narration of the discussions which took place at the CMD satisfied the Tribunal that it was also reasonable to grant an order in these circumstances and given the circumstances of both parties, and to do so at this stage. The Respondent had not entered into the Tribunal process and the Tribunal therefore had no material before it either to contradict the Applicant's position nor to advance any reasonableness arguments on behalf of the Respondent. The Tribunal accordingly determined that an order for recovery of possession of the Property could properly be granted at the CMD as, in these circumstances, there was no need for an Evidential Hearing.

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.

N.Weir

Legal Member/Chair

13 June 2025
Date