



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/5532

Re: Property at Gosland Farmhouse, Kilbucho, Biggar, ML12 6JG (“the Property”)

Parties:

The Shalstan Property Company Limited, 5 Atholl Crescent, Edinburgh, EH3 8EJ (“the Applicant”)

Ms Susan Curatolo, Gosland Farmhouse, Kilbucho, Biggar, ML12 6JG (“the Respondent”)

Tribunal Members:

Richard Mill (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 that an order be granted against the Respondent for payment to the Applicant the sum of Twenty Four Thousand Four Hundred and Forty Pounds (£24,440)

Introduction

1. These are linked applications between the same parties. The first application seeks an eviction order and is under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The second application seeks a payment order relating to arrears of rent and is under Rule 111 and Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. Service of the applications and intimation of the Case Management Discussions (CMDs) were effected by Sheriff Officers on the respondent on 7 April 2025.

3. The CMD hearing in both cases took place by teleconference on 10 June 2025 at 2.00 pm. The applicant was represented by Mr Miles McKay of Gillespie Macandrew Solicitors. There was no appearance by or on behalf of the respondent. No representations had been received from her.

Findings and Reasons

4. The property is Gosland Farmhouse, Kilbucho, Biggar ML12 6JG. The applicant is The Shalstan Property Company Limited who is the heritable proprietor and registered landlord. The respondent is Ms Susan Curatolo who is the tenant. A private residential tenancy was entered into between the parties which commenced on 20 July 2018. The rent stipulated was £460 per month.
5. The respondent has fallen into significant arrears of rent throughout the subsistence of the short duration of the lease. They have paid no rent since March 2024. At the time that the applications were submitted to the Tribunal, rent arrears were £24,440 as at 20 October 2024. Throughout the time that the application has been pending the arrears have increased. The arrears now outstanding in the sum of £27,660.
6. The applicant is entitled to recover arrears of rent due under and in terms of the written lease between the parties. The Tribunal therefore granted a payment order against the respondents in the sum of £24,440 as sought in the application. There is no opposition by the respondent and no time to pay direction application has been made. A payment order is necessary as the respondent refuses or unreasonably delays in making the required payment.
7. The eviction proceedings are based upon the arrears of rent established and the ground relied upon is ground 12 of Schedule 3 to the 2016 Act, namely that the respondent is in rent arrears over three consecutive months.
8. The Tribunal found that the Notice to Leave upon which the eviction application proceeds is valid. It is dated 8 October 2024. This states that an application will not be submitted to the Tribunal for an eviction before 8 November 2024. The Notice is compliant with the requirements set out in Section 62 of the Act. It is also noted that there is post office track and trace data which shows that the Notice to Leave was delivered on 9 October 2024. The required 28 days' notice was given to the respondent.
9. The Tribunal was satisfied that more than three consecutive months of rent was outstanding at the time that the Notice to Leave was served and also remains unpaid by the respondent. This establishes ground 12. The Tribunal proceeded to consider the issue of reasonableness.
10. The applicant is adversely affected financially by the absence of rent being paid. The rent arrears are significant. The rent arrears pre-action requirements have been fulfilled by the applicant. It is unreasonable to require the applicant to continue to provide accommodation to the respondent in the absence of rent being paid. The respondent has not opposed the eviction. She resides in the property alone and it is known she is in employment.

11. There is evidence that the local authority has been advised of the eviction proceedings with a relevant section 11 homelessness notice having been issued by the applicant. In the event of an eviction order being granted the local authority has an obligation to make alternative accommodation available to the respondent.

12. In all of the circumstances, the Tribunal determined it was reasonable to grant the eviction order sought by the applicant.

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.

Richard Mill

10 June 2025

Legal Member/Chair

Date