



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/24/5674

Re: Property at 9/10 Moncreith Terrace, Edinburgh, EH9 1NB (“the Property”)

Parties:

Mr Silas Leung, 32A/4 Warrender Park Terrace, Edinburgh, EH9 1ED (“the Applicant”)

Mr David Robertson Lennox, Krisztina Beata Fodor, 9/10 Moncreith Terrace, Edinburgh, EH9 1NB; 13/6 Northfield Road, Edinburgh, EH8 7PW (“the Respondents”)

Tribunal Members:

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

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondents from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 16 April 2025 informing both parties that a CMD had been assigned for 3 June 2025 at 10am, which was to take place by conference call. In that letter, the parties were also told that they were required to take part

in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 7 May 2025.

4. On 16 May 2025, the Tribunal received an email from the Applicant's representative, attaching an updated rent statement.
5. On the morning of 3 June 2025, the Tribunal received an email from the First Respondent advising that he had been hospitalised and would be unable to attend the CMD. He also advised that he was aware that he had to organised somewhere else to stay and payment to his landlord. He asked for a postponement of the CMD.

The case management discussion – 3 June 2025

6. The CMD took place by conference call. The Applicant joined the call and was represented by Miss Chloe Herd, solicitor. The Respondents did not join the call and the discussion proceeded in their absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/24/5835. The Tribunal explained the purpose of the CMD. The Tribunal raised the preliminary issue relating to the First Respondent's request to postpone the CMD. The Applicant and his representative left the conference call so that Miss Herd could take instructions. When the Applicant and his representative rejoined the call, Miss Herd advised that the request to postpone the CMD was opposed. She explained that the Applicant had concern over the veracity of the information provided. When asking for more time to pay rent, the First Respondent had told the Applicant on several occasions that he was going to hospital. There was no medical evidence produced to support the request to postpone the CMD. The Tribunal advised the Applicant and his representative that they would hear from them in relation to the applications and would then consider all matters, including the preliminary issue.
7. The Applicant's representative explained that the Second Respondent vacated the Property in March 2024. The First Respondent is believed to live alone in the Property with no dependents. His current employment status is unknown. However, at the outset of the tenancy, he told the Applicant that he was employed by Virgin Money and he subsequently told him that he is not entitled to benefits because he was in employment. On several occasions, the First Respondent contacted the Applicant and advised that he needed to borrow back some of the rental payments he had made because he needed to pay for taxis to take him to hospital. The Applicant recorded this on the rent statement under the heading "borrowing". The rent arrears have increased significantly since the Notice to Leave was served and since the application was submitted.

The rent arrears now stand at £11,999.91. The Applicant is 73 and no longer wishes to be a landlord. He intends to sell the Property if and when he recovers possession.

8. The Tribunal adjourned to consider the information provided. When the CMD reconvened, the Tribunal explained that the members refused the First Respondent's request to postpone the CMD. The members found that the grounds for eviction had been established and that it was reasonable to grant the order for eviction.

Findings in Fact

9. The parties entered into a private residential tenancy which commenced 10 October 2023.
10. The Applicant served Notice to Leave on the Respondents by sheriff officer on 11 September 2024.
11. The contractual monthly rent is £990, payable in advance.
12. The Respondents owe rent arrears to the Applicant amounting to £11,999.91.
13. The Applicant intends to sell the Property.

Reason for Decision

14. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Tribunal was not persuaded to postpone the CMD. The First Respondent received the Notice to Leave in September 2024. He was aware of the eviction grounds relied upon. He received intimation of the application and supporting papers in April 2025. He made no contact with the Applicant or the Tribunal to set out his position about the applications. The email from the First Respondent was not accompanied by any medical evidence. The First Respondent indicated in his email that he was aware that he needs to find somewhere else to live. There was no indication in the email that the First Respondent wanted to oppose the application.
15. The Applicant relied upon grounds 1 and 12 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant had produced an affidavit which explains why he intends to sell the Property. There was no material before the Tribunal to suggest that the accuracy of the updated rent statement was disputed. The rent arrears equate to more than 12 months' rent. The tenancy appears to be unaffordable to the First Respondent. The Tribunal was satisfied that the grounds for eviction was established and that it was reasonable to grant the 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

Legal Member/Chair

3 June 2025

Date