



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 (Act)

Chamber Ref: FTS/HPC/EV/25/0796

Re: Property at 19 Jim Bush Drive, Prestonpans, EH32 9GB (“the Property”)

Parties:

Trustees Of Finn & Tallulah O'Neill, Greenhurst Farm, Cartmel, Grange-Over-Sands, LA11 7SL (“the Applicant”)

Mr Karl Milwood, 19 Jim Bush Drive, Prestonpans, EH32 9GB (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

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

Background

This is an application under Rule 109 and section 51(1) of the Act for eviction and recovery of possession on Ground 12 of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 21 February 2025;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 27 May 2022;
3. Notice to Leave dated 16 January 2025 served by email of the same date;
4. Section 11 Notice to Local Authority served by email dated 21 February 2025;
5. Rent Arrears Statement as at 16 February 2025;
6. Pre Action Correspondence;
7. Certificate of Service of Tribunal CMD Notification on the Respondent by Sheriff Officers dated 30 April 2025;
8. Written Statement from Applicants received 29 May 2025.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 30 May 2025. The Applicants did not participate but were represented by Mr Alexander and Ms Young, Letting Agents. The Respondent participated and represented himself.

The Respondent's position

The Respondent confirmed he did not oppose the application. He apologised for the amount of rental arrears and explained the personal circumstances which had caused this. Whilst he did not accept the amount of arrears stated in the papers by the Applicants he did accept that the current arrears were in the region of £6-6,500.

The Respondent has care of his 3 children all of whom live with him in the Property and attend school in Edinburgh. He has a son aged 11 and twin daughters who are nearly 9.

He has been in contact with the local authority and been told he will not receive priority until an eviction order is granted.

The Applicant's position

The Applicants' Representative informed the Tribunal that the amount of arrears had increased to £9,718.52.

The Applicants were both elderly, in their 80s and wished the Property for their granddaughter aged 23 who was coming to Edinburgh to study.

The Tribunal had regard to Ground 12 of Schedule 3 to the Act which provides:

Rent arrears

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.

The Tribunal then considered the documentary evidence it had received and the submissions made. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 27 May 2022;
2. The monthly rent was £772.50;
3. Notice to Leave had been served on the Respondent by email on 16 January 2025;

4. As at the date of service of the Notice to Leave the Respondent was in arrears of rent and had been in arrears for a continuous period of three or more consecutive months;
5. As at the date of the CMD the Respondent agreed he was in arrears of rent in the region of £6-6,500;
6. The rental arrears were not due to any delay or failure in the payment of a relevant benefit;
7. PARS correspondence had been issued to the Respondent;
8. Section 11 notification had been served on the local authority;
9. The Respondent lives in the Property with his 3 children who attend school in Edinburgh;
10. The Applicants are the Trustees of a Trust in the name of their grandchildren who wish the Property vacated for their granddaughter to occupy it.

The Tribunal was satisfied that Ground 12 had been established and it was reasonable to grant the application for eviction and recovery of possession in the circumstances.

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.

Alan Strain

30 May 2025

Legal Member/Chair

Date