

Housing and Property Chamber
First-tier Tribunal for Scotland



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/24/4575

Re: Property at 46 Terregles Drive, Glasgow, G41 4RN (“the Property”)

Parties:

Mr Abdul Khaliq, 178 Terregles Avenue, Glasgow (“the Applicant”)

Mr Justin David Eade, 46 Terregles Drive, Glasgow, G41 4RN (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Gordon Laurie (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be granted.

Background

1. On 3rd October 2024 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 15th October 2020 and a rent of £850 per month;
 - ii. Copy Notice to Leave dated 28th August 2024;
 - iii. Copy email serving Notice to Leave on 28th August 2024;
 - iv. Section 11 Notice and proof of service;
 - v. One Pre Action Requirement email
 - vi. Copy Rent Statement showing arrears of £5250 as at 15th September 2024;
3. The Application was served on the Respondent by Sheriff Officers on 11th March 2025.

4. On 19th May 2025 the Applicant's agent sent an email to the Tribunal attaching an up to date rent statement, showing arrears of £12450 as at 15th May 2025.

Case Management Discussion

5. The Case Management Discussion ("CMD") took place on 23rd May 2025 by teleconference. The Applicant was represented by Mr Mouat of Western Lettings. The Respondent dialled in and represented himself.
6. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
7. Mr Mouat sought an order for eviction in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. He said that the Respondent was now in arrears of rent in the amount of £12450, being well over one year of arrears. There had been no payments whatsoever towards the rent account since March 2024. He said that at the time the Notice to Leave was served the rent arrears were £4350.
8. The Respondent started by saying that he had not received the papers in time for him to meet the deadline for lodging a written response. He appreciated that they had been served by Sheriff Officers but he had been away performing caring responsibilities in relation to his elderly mother, who has Alzheimer's. He said he had a lot of information to put before the Tribunal. He said that he was planning to move out of the property. This had taken longer than anticipated due to his daughter's disability. She is 10 and has epilepsy, autism and anxiety. He said that he was hoping to work within a reasonable timeframe and would prefer to move forward in an amicable way. He said that he had refused to pay rent as he had been making requests for updates, improvements and repairs. He had then suffered a serious injury. He said he would prefer to come to some arrangement rather than having each side incur legal fees through extended court action. The Chairperson pointed out that the only matter before the Tribunal today was the application for eviction and it was not the Tribunal's role to broker any type of deal.
9. The Respondent reiterated that he intended to move out before the end of June. The Chairperson asked him if he had the £12450 of withheld rent in a separate bank account, ready to pay to the Applicant when the issues he alleged were causing him to withhold the rent had been dealt with. He said that he did not. The Tribunal asked him if he was accepted that an eviction order should be made, or if he was challenging it on the grounds of reasonableness. He did not give a definitive answer but conceded that he should have put the rent money in a separate account if he was arguing that he was withholding rent.

10. The Respondent, in reply to the Tribunal's questions, said that he is 53 years of age. He lives in the property with his daughter. He has a number of health conditions, including chronic anxiety and insomnia. He is currently unemployed. He has only just started getting a housing benefit. He was previously in social housing but had to move due to incidents. Glasgow City Council made a payment of £7800 towards his rent arrears. He had been struggling financially at that time and doing a lot of voluntary work. He had not made an application for help during the pandemic, and there was money left in the fund.

11. The Tribunal explored the Respondent's intentions with him. He again confirmed that he intended to be out of the property by the end of June and he was confident that he would be. He had started to arrange storage for his furniture.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing 15th October 2020 and at a rent of £850 per month;
- b. A Notice To Leave, dated 28th August 2024, was served timeously and correctly;
- c. The rent arrears when the Notice to Leave was served were £4350;
- d. A section 11 notice was served on the local authority;
- e. The Application was served on the Respondent by Sheriff Officer on 11th March 2025;
- f. The current arrears are £12450;
- g. The Respondent's being in arrears of rent over the period in question is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit;
- h. The Respondent lives with his 10 year old daughter;
- i. The respondent intends to leave the property by the end of June 2025.

Reasons for Decision

12. Ground 12 states as follows:

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.

(5) For the purposes of this paragraph—

(a) references to a relevant benefit are to—

(i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),

(ii) a payment on account awarded under regulation 91 of those Regulations,

(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,

(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,

(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.

(6) Regulations under sub-paragraph (4)(b) may make provision about—

(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),

(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

(c) such other matters as the Scottish Ministers consider appropriate.

13. The Tribunal is satisfied that the Respondent has been in arrears for three or more consecutive months. The Tribunal is satisfied that there is no need to fix a Hearing. The Respondent said several times that he intended to leave the property by the end of June 2025. The Respondent is now in arrears of rent equating to more than a full year of payments. Even if the Respondent had not confirmed his intention to leave by the end of June 2025 the level of arrears makes it reasonable in and of itself to grant the order.

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.

Alison Kelly

23rd May 2025

Legal Member/Chair

Date