



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/24/5416

Re: Property at 80 Tillydrone Avenue, Aberdeen, AB24 2TN (“the Property”)

Parties:

Univ Court Of The Univ Of Aberdeen, Housing Office, University Office, Kings College, Aberdeen, AB24 3FX (“the Applicant”)

Mr Albert Lahat and Mrs Sharon Lahat, whose present whereabouts are to the Applicant unknown (“the Respondents”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondents)

At the Case Management Discussion (“CMD”), which took place by telephone conference on 2 June 2025, the Applicant was represented by Ms Wendy Cruickshank. The Respondents were neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondents having received notice of the CMD and determined to proceed in the absence of the Respondents in terms of Rule 29.

The CMD was also in respect of the related case bearing reference FTS/HPC/CV/24/5419.

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

The Tribunal noted the following background:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondents in terms of a Private Residential Tenancy Agreement (“the PRT”) that commenced on 2 August 2019.
- iii. The rent payable in terms of the PRT was originally £725 per calendar month.

- iv. The rent has subsequently increased, most recently by a Rent Increase Notice dated 26 April 2024 in terms of which the rent increased to £806.49 per calendar month with effect from 1 August 2024.
- v. On 21 October 2024, the Applicant served on the Respondents by email a Notice to Leave requiring the Respondents remove from the Property by 21 November 2024 on the basis that rent arrears had accrued over three consecutive months.
- vi. As at the date of the Notice to Leave being served the arrears accrued were £3,165.72.
- vii. The Applicant served on Aberdeen City Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- viii. The Applicant has served on the Respondents communications to comply with the Scottish Government's pre-action protocols.

The CMD

At the CMD Ms Cruickshank for the Applicant made the following representations:-

- i. The Second Respondent was formerly a student of the Applicant undertaking a Masters degree. The First Respondent is the Second Respondent's husband and they lived together in the Property.
- ii. Ms Cruickshank believed the Second Applicant had completed her studies albeit there had been a few extensions.
- iii. Initially the Applicant thought the Respondents had simply fallen into arrears with their rent and would start paying again as had happened previously. The Applicant was unaware that the Property might have been abandoned.
- iv. Subsequently there were communications with the Second Respondent relative to a possible separation from the First Respondent. It was thought the Second Respondent may have removed but the First Respondent was still living in the Property.
- v. In around late Autumn 2024 the Property was inspected from the exterior. There was seen to be food on the table in the kitchen. There were minimal contents in the lounge. As the bedrooms are upstairs, no sight of them could be obtained. These proceedings were therefore raised.
- vi. There have been significant communications sent to the Respondents. They have not replied.
- vii. The rent arrears as at 31 May 2025 are £8,811.15
- viii. The Applicant seeks an eviction order.

The Tribunal observed that the application proceeds on Ground 8 of Schedule 3 of the 2016 Act when the correct ground is Ground 12. Ms Cruickshank asked that the application be amended to Ground 12.

Findings in Fact

The Tribunal made the following findings in fact:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondents in terms of the PRT.
- iii. The rent payable in terms of the PRT was originally £725 per calendar month.
- iv. The rent subsequently increased, most recently by a Rent Increase Notice dated 26 April 2024 in terms of which the rent increased to £806.49 per calendar month with effect from 1 August 2024.
- v. On 21 October 2024, the Applicant served on the Respondents by email a Notice to Leave requiring the Respondents remove from the Property by 21 November 2024 on the basis that rent arrears had accrued over three consecutive months.

- vi. As at the date of the Notice to Leave being served the arrears accrued were £3,165.72.
- vii. The Applicant served on Aberdeen City Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- viii. The Applicant has served on the Respondents communications to comply with the Scottish Government's pre-action protocols.
- ix. The Second Respondent was formerly a student of the Applicant undertaking a Masters degree. The First Respondent is the Second Respondent's husband and they lived together in the Property.
- x. Initially the Applicant thought the Respondents had simply fallen into arrears with their rent and would start paying again as had happened previously. The Applicant was unaware that the Property might have been abandoned.
- xi. Subsequently there were communications with the Second Respondent relative to a possible separation from the First Respondent. It was thought the Second Respondent may have removed but the First Respondent was still living in the Property.
- xii. In around late Autumn 2024 the Property was inspected from the exterior. There was seen to be food on the table in the kitchen. There were minimal contents in the lounge. As the bedrooms are upstairs, no sight of them could be obtained.
- xiii. There have been significant communications sent to the Respondents. They have not replied.
- xiv. The current arrears balance is £8,811.15.

Reasons for Decision

The Respondents did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally by Ms Cruickshank at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal allowed the application to be amended from Ground 8 to Ground 12 of Schedule 3 of the 2016 Act.

The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order under Ground 12 of Schedule 3 of the 2016 Act on the basis that the rent arrears have accrued over a prolonged period and the Respondents have failed to answer all communications sent to them in that connection.

Decision

The Tribunal allowed the application to be amended from Ground 8 to Ground 12 of Schedule 3 of the 2016 Act and thereafter granted an eviction order in favour of 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.

Gillian Buchanan

Legal Member/Chair

2 June 2025
Date