

**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**

Chamber Ref: FTS/HPC/EV/24/5848

Re: Property at 3 Ivanhoe, Cumbernauld, G67 4BB (“the Property”)

Parties:

Mr Thomas Russell, 16 Carrick Road, Bishopton, PA7 5DY (“the Applicant”)

Mr Lee Prosser, Jacqueline Carr, 3 Ivanhoe, Cumbernauld, G67 4BB (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondents from the property.

Background

1. By application dated 19 December 2024 the Applicants’ representatives, The Property Store EK Ltd, East Kilbride, applied to the Tribunal for an order for the eviction of the Respondents from the property in terms of Grounds 11 and 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of a tenancy agreement, Rent Ledger, Notice to Leave with execution of service, Section 11 Notice with proof of service together with other documents in support of the application.
2. By Notice of Acceptance dated 25 January 2025 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 1 April 2025.

The Case Management Discussion

4. A CMD was held by teleconference on 1 July 2025. The Applicant did not attend but was represented by Ms Anne Kelly from the Applicant's representatives. The Respondents did not attend nor were they represented. The Tribunal being satisfied that proper intimation of the CMD had been given to the Respondents determined to proceed in their absence.
5. The Tribunal noted from the documents submitted with the application that the parties commenced a Private Residential tenancy of the property on 7 March 2024 at a rent of £695.00 per calendar month. Ms Kelly advised the Tribunal that the second Respondent Ms Carr was certainly still living in the property as she had been in communication in the last two weeks. Ms Kelly had no information about Mr Prosser. Ms Kelly advised the Tribunal that the rent arrears had increased to £4945.00.
6. The Tribunal also noted that the Respondents had been served with a Notice to Leave under Grounds 11 and 12 of Schedule 3 of the 2016 Act by Sheriff Officers on 11 November 2024 and that a Section 11 Notice had been sent to South Lanarkshire Council by email on 19 December 2024.
7. In response to a query from the Tribunal Ms Kelly said that in December 2024 the second Respondent had been working part time. She did not know if the first Respondent was working and she had no information about any benefit payments. Ms Kelly said she was aware that Ms Kelly had a three-year-old child living with her and had advised her about two weeks ago that she was pregnant. In response to a further query from the Tribunal Ms Kelly said that she was aware that the second Respondent had approached the local authority for housing but had no further information. As far as she was aware the Respondents had no health issues and she was not aware of there being any entitlement to housing-related benefits or delays in the payment of same.
8. With regards to the breach of the tenancy agreement Ms Kelly said that she had attended at the property following the Respondents being targeted last year and having their car vandalised and a window broken at the property. Ms Kelly said that she had found the property to be in a state with damage to the flooring, walls and blinds and a lot of rubbish in the kitchen that was a health issue. Ms Kelly said the Respondents were failing to maintain the property in accordance with the terms of the tenancy agreement. Ms Kelly also said that subsequently she had been unable to gain access to the property as the Respondents would not permit entry.

Findings in Fact

9. The Respondents commenced a Private Residential Tenancy of the property on 7 March 2024 at a rent of £695.00 per calendar month.
10. A Notice to Leave under Grounds 11 and 12 of Schedule 3 of the 2016 Act was served on the Respondent on 11 November 2024 at that time the Respondents had been in arrears of rent for a period of more than three months.
11. A Section 11 Notice was sent to South Lanarkshire Council Council on 19 December 2024.
12. The Respondents are in breach of the tenancy agreement as they have caused damage to the property and failed to keep it clean.
13. At the date of the CMD the Respondents owed rent of £4945.
14. The Second Respondent is living in the property with her three-year-old child and has advised the Applicant's representatives that she is pregnant.

Reasons for Decision

15. The Tribunal was satisfied from the documents submitted and the oral submissions from Ms Kelly that the parties entered into a Private Residential tenancy that commenced on 7 March 2024. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Grounds 11 and 12 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to South Lanarkshire Council by way of a Section 11 Notice. The Tribunal was also satisfied from the information provided by Ms Kelly that the Respondents had caused damage to the property and were in breach of the terms of their tenancy agreement and were also due rent amounting to £4945.00.
16. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that despite being given an opportunity to submit written representations and to attend the CMD the Respondents had chosen to do neither. The Tribunal has to balance the needs and circumstances of the Applicant with the needs and circumstances of the Respondents in arriving at a decision. The level of rent arrears is very significant. The Respondents are failing to maintain the property and have caused damage to the flooring, walls and blinds. They are storing rubbish in the kitchen to an unacceptable level. They are refusing to allow the Applicant's representatives access to the property.

Although the Respondents have a young child living in the property with them and although the second Respondent may be expecting another child in the event of being made homeless the Tribunal understands that the local authority will provide the family with temporary accommodation. Given the level of rent arrears and the serious breach of the tenancy agreement the Tribunal is satisfied that it is reasonable to grant an order for the eviction of the Respondents from the property.

Decision

17. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondents from the property.

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.

G Harding

Graham Harding
Legal Member/Chair

1 July 2025
Date