

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/25/0124

Re: Property at Flat 11, 4 Essendean Terrace, Edinburgh, EH4 7HD (“the Property”)

Parties:

Mr Rhod Grubb, Mrs Karen Grubb, Hunters Lodge, Kinninmonth Farm, Kinglassie Lochgelly, KY4 0UG; 120 Glasgow Road, Edinburgh, EH28 8PR (“the Applicant”)

Ms Sasha Muir, Mr Michael Crook, Flat 11, 4 Essendean Terrace, Edinburgh, EH4 7HD (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. Two applications were made under Rule 111 and 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment and an

order for recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.

2. The applications contained: -
 - a. the tenancy agreement,
 - b. the notice to leave with evidence of service
 - c. section 11 Notice with evidence of service
 - d. rent statement
 - e. emails to the tenant about rent arrears
 - f. rent increase notice
3. The applicant submitted further correspondence to the tribunal and also the respondents on 12 June 2025. They sought to amend the sum sued to £9,550 as this was the sum due for the current rent arrears. They attached an updated rent statement.
4. A case management discussion took place on 27 June 2025. In attendance was the applicant's agent, Mr Puren from Pure Property Management. Notice of the Case Management Discussion had been made by the sheriff officers on 2 April 2025. The respondents did not appear. The tribunal was prepared to proceed in their absence, given they had notice of today's Case Management Discussion.

Discussion

5. The applicant's agent advised that the applicant was seeking an order for recovery of possession of the property under ground 12 (three months' rent arrears).
6. The applicant was also seeking an order for payment of the amended sum of £9,550.00. The applicant's agent advised that he had sent the updated rent statement to the respondents at the same time as he had sent it to the tribunal.

7. He moved to amend the sum sued to £9,550.00. The respondents had been made aware of this amendment. The tribunal granted this amendment.
8. He advised that the rent arrears had been increasing since the application was made and were now over £9,000.00.
9. The agent advised that the last payment made was on the 8th of August 2024. The agents had sent the respondents reminder notices and attended at the property to try to make contact with the respondents. They had sent information to the respondents regarding the rent arrears and also provided them with advice on agencies to contact who may be able to help them deal with the rent arrears. There had been no response by the respondents to address the arrears.
10. The agent advised that they had carried out a welfare check, as they were not clear whether or not the respondents were still residing there. The respondents had given notice that they were moving out of the property on three or four occasions, but then, on each occasion had not moved out.
11. The agents admitted that they had provided support to the respondents in relation to the rent arrears; however, the respondents had failed to engage. Rent arrears were accruing, and there was no payment arrangement in place; accordingly, he sought an order for eviction.
12. The agent advised that they had contacted the local authority to ascertain whether or not there were any issues with benefits. The local authority had responded to advise that the first respondent had not engaged with them.
13. The agent advised that the second respondent, Mr Crook may have moved out however, he had not confirmed this to the agents and had not provided the agents with an up to date new address. The tenancy agreement was still in the name of both parties. The agent advised that contact from the second respondent had on occasion, been very abusive towards staff members.

14. The agent advised that it had proved impossible to resolve the issue of rent payment and arrears.
15. The agent advised that the first respondent had a teenage daughter at university, who may be living at the property during holiday periods.
16. The agent advised that when the respondents had commenced the tenancy, the financial checks showed a combined income of £56,000. At that time, both respondents were working. He was unable to confirm the up-to-date working position, given the failure by the respondents to engage.
17. In relation to the landlord's circumstances, he advised that there was a mortgage over the property. The landlords had recently separated. They relied on their rental income. He understood they had 3 or 4 properties which they rented out. Given that they had separated he believed that recovery of property and payment of rent would be more important now as it would be supporting two households.

Findings in Fact

18. The Tribunal found the following facts established: -
19. There existed a private residential tenancy.
20. The tenants were Sasha Muir and Michael Crook.
21. The landlords were Mr Grubb and Karen Grubb.
22. The property was 4/11 Essendean Terrace, Edinburgh.
23. It had commenced on 8 July 2021.
24. The tenancy stated that rent was £700 a calendar month payable in advance. There had been a rent increase.
25. There was submitted a notice to leave dated 16 October 2024, stating that an application would not be made until 11 January 2025. It sought eviction under ground 12 rent arrears. It set out that the respondent had been in rent arrears

for more than three consecutive months. The notice to leave had been emailed to the tenant. There was evidence of service.

26. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service.

27. On 16 October 2024 rent arrears were £2,750.00.

28. As of 27 June 2025, the arrears were £9,550.00.

29. There were arrears on the rent account since at least 8 May 2024.

30. The last payment to rent was made on 8 August 2024.

31. There was evidence that the pre-action protocol requirements had been followed.

32. There was no evidence of failure or delay in any benefit payment to the respondent.

33. The respondents had regularly failed to pay their rent and arrears. The arrears had been steadily accruing.

34. The respondents had failed to enter into a repayment arrangement with the landlords

Reasons for Decision

35. Section 51 of the 2016 Act provides the Tribunal with the power to grant an order for eviction for a private residential tenancy if it finds that one of the grounds in Schedule 3 of the Act applies.

36. The ground which the Applicant seeks eviction under is ground 12. It is in the following terms :-

12 Rent arrears

(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

*(2) [...]*²

(3) The First-tier Tribunal may find that the ground named by subparagraph (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 [—] 3 [

(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.] 3

(5) For the purposes of this paragraph— ...

37. The applicant's agent confirmed that they sought an order for eviction based on the fact that the respondents had been in rent arrears for three or more consecutive months. When the notice to leave was served on 16 October 2024 the respondent had been in rent arrears for well over three months. The arrears had started to accrue in May 2024. There did not appear to be any benefit issues which were causing the arrears. It appeared that the first part of ground 12 was met.

38. Given that the first part of the ground is met, the tribunal is therefore required to proceed to consider if it would be reasonable to grant the order.

39. We find it would be reasonable to grant the order for eviction; in coming to this conclusion, we took into account the following matters:-

40. Matters in support of granting the order were as follows:- The arrears were now more than £9,500.00. Arrears had been accruing since around May 2024. The respondents had made no payments towards the rent or arrears since August 2024. There were no proposals to repay the arrears. The second respondent had been abusive to staff. The first respondent had advised that she was leaving the property on several occasions, but then did not do so. She did not engage with the letting agents. The letting agent had let the respondents know regularly regarding the rent arrears, and provided advice to them about where to get help. These efforts had not been

successful. The second respondent may have, in fact left the property but had not provided any up-to-date details if he has done so.

41. While there may be a young adult also living in the property some of the time, we place little weight on this issue, as it appears that she has other accommodation when she is at university. We were not aware of any other vulnerabilities or issues which would mitigate in favour of the respondents.
42. In respect of the landlords, we note that they rely on the rental income to support themselves and pay the mortgage; they have 3 or 4 properties only, which they rent out. They have separated, and the rent income may be all the more important in supporting two households.
43. Matters against the order being granted were that the applicants were a small commercial enterprise and should expect to take some risk renting out properties.
44. In balancing up the various factors before us, we do not consider that the factors against the order being granted outweigh the reasons why it should be granted. While the applicants may expect to suffer some financial risk in renting out properties, they were a small commercial enterprise, and they relied on the rental income to repay the mortgage on the property and to support their two households. There have been clear attempts by the applicant's agent to try and engage with the respondents to pay the rent and none of these attempts have been successful. The arrears are now almost £10,000.00, which is a significant sum of money. There is no apparent reason for the failure to pay the rent or the arrears. We considered that the attempts made by the applicants were reasonable. We consider it would be reasonable to grant an order for eviction.
45. Accordingly, considering the papers before us and the oral submission by the applicant's agent the tribunal was prepared to grant the order for recovery of possession, given that the first part of ground 12 was met and in all the circumstances it appeared to us to be reasonable to grant the order.

Decision

46. The Tribunal grants an order in favour of the Applicants against the Respondents for recovery of possession of the private residential tenancy

under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

27 June 2025

Legal Member/Chair _____

Date