

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 ("The Act")

Chamber Ref: FTS/HPC/EV/24/2833

Re: Property at 1 Sanderling, Lesmahagow, ML11 0GX ("the Property")

Parties:

Mr Geoffrey Whale, 178 Willowmead Road, Leybourne, Kent, ME19 5RD ("the Applicant")

Mr Michael Joseph Collins, 1 Sanderling, Lesmahagow, ML11 0GX ("the Respondent")

Tribunal Members:

Mr A. McLaughlin (Legal Member) and Ms A. Moore (Ordinary Member)

Decision (in absence of the Respondent)

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") granted the Application and made an Eviction Order.

Background

[2] The Applicant seeks an Eviction Order under grounds 11,12 and 14 of Schedule 3 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement, the notice to leave with proof of service, the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 and a rent statement. There is also evidence of compliance with *The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020*. Evidence and submissions are also produced setting out the basis of the Respondent's alleged anti-social behaviour founded upon. There had been a previous Case Management Discussion ("CMD") which had regulated further

procedure. The Respondent had not engaged with the Tribunal at that CMD. The Application had thereafter been continued for a Hearing by teleconference.

The Hearing

[3] The Application then called for a Hearing by conference call at 10am on 10 July 2025. The Applicant was represented by Mr Steven Rollo of Let- Link Letting Agents. Mr Rollo explained that he had anticipated that the Applicant himself might join the call but understood that he had been unwell. The Respondent was not in attendance. The Respondent had received intimation of the Application by Sheriff Officers. He had also then received notification of the date and time of the Hearing fixed. The Respondent had not engaged with the Tribunal any point. The Tribunal therefore decided to proceed in the absence of the Respondent.

[4] Mr Rollo explained that he considered himself able to give evidence as a witness in the matter. The Tribunal explained that evidence would be initially be heard in respect of Ground 12 of the Application. The Tribunal took the view that it was efficient and in keeping with the overriding objective to consider that Ground first. If Ground 12 was found to be established and it was found to be reasonable to make an Eviction Order, then it would negate the need to hear further evidence regarding the other Grounds set out in the Notice to Leave.

Steven Rollo

[5] Steven Rollo is a manager at Let -Link letting Agents. He explained that the Respondent lives alone in the Property. He uses crutches and sometimes a wheelchair. Mr Rollo described the Respondent as being volatile, violent and dangerous to be around. Mr Rollo's staff avoid the Property and Mr Rollo was clearly apprehensive about having any interactions with the Respondent due to threats of violence. Mr Rollo spoke to the Respondent also being verbally abusive to himself and colleagues. The documentation submitted with the Application set out the allegations that the Respondent was violent to others and extremely disruptive to others in the area.

[6] Mr Rollo explained that the Respondent was currently in rent arrears of £1,217.00. The contractual monthly rent was £450.00 per month. The Respondent paid £395.00 each month meaning that these arrears continued to increase. Mr Rollo spoke to efforts made to direct the Respondent to sources of financial support which had been ignored. Mr Rollo explained that on 17 January 2025, the Respondent had said to Mr Rollo on the phone: "*I have the money but I'm not paying it to you*" followed by a series of expletives. Mr Rollo explained that the Property was in an extremely poor condition but the Respondent's demeanour made it practically impossible for anyone to assist him.

[7] Mr Whale was 73 and suffered ill health himself. He was having to supplement his income by driving a taxi. He was losing approximately £200 per month on Property due to lack of full payment of rent, increased mortgage payments, factoring fees and landlord insurances. If the Property is recovered he will also have to spend a significant amount of money estimated £5,000 to £7,000 to bring the Property back to a lettable standard.

[8] Having heard from the Mr Rollo and having considered the whole facts and circumstances of the case, the Tribunal made the following findings in fact.

Findings in Fact

- 1) *The Applicant lets the Property to the Respondent under a Private Residential tenancy within the meaning of the Act. The Respondent inherited his late mother's interest as tenant in the Property.*
- 2) *The Respondent has fallen into rent arrears and the sum of £1,217.00 is now lawfully due as arrears of rent by the Respondent to the Applicant;*
- 3) *The Applicant has signposted the Respondent to sources of financial support;*
- 4) *The Applicant competently served a notice to leave under grounds, 11, 12 and 14 of Schedule 3 of the Act. Ground 12 was established at the date of service of the notice to leave and remains established as at today's date;*
- 5) *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003 and The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- 6) *The Respondent has failed to engage with the Tribunal process.*
- 7) *The Respondent is considered to be violent, volatile and aggressive and the Applicant's letting agents have been threatened when they attempt to engage with the Respondent. The Respondent has previously told the Applicant's letting agent, Mr Steven Rollo, that he "has the money" but he's not giving it to the Applicant. The arrears continue to increase. There have been numerous instances of alleged anti-social behaviour made by other residents against the Respondent.*

Reasons for Decision

[9] The Tribunal noted that Ground 12 had been found to be established both at the date of service of the notice to leave and also as at today's date. The Tribunal therefore proceeded to consider the reasonableness or otherwise of making an Eviction Order.

Whilst the Tribunal noted that the level of the rent arrears themselves might be considered to be relatively modest, the Tribunal considered that the tenancy had clearly failed. The landlord and his agents were no longer able to safely go about their business of managing the tenancy as a result of the Respondent's behaviour. It appeared unreasonable to the Tribunal to expect the situation to continue any longer. It clearly appeared to be doing no one any good. The Tribunal couldn't imagine it was beneficial to the Respondent either to be living in poor conditions because no one felt safe to approach him. The Tribunal considered that it was reasonable to make an Eviction Order. Having made this decision, the Tribunal therefore considered it unnecessary to hear further evidence regarding the other grounds set out in the Notice to Leave.

[10] The Tribunal therefore granted the Application and made an Eviction Order.

Right of Appeal

[11] 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.

A. McLaughlin

Legal Member/Chair

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10 July 2025

Date