

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(1) of the Private Housing
(Tenancies) (Scotland)**

Chamber Ref: FTS/HPC/EV/24/3995

Re: Property at 41 Parkhead Avenue, Edinburgh, EH11 4SF (“the Property”)

Parties:

DMF Property Ltd, 11 Glenlockhard Bank, Edinburgh, EH14 1BL (“the Applicant”)

Petronela Sonia Grancea, 41 Parkhead Avenue, Edinburgh, EH11 4SF (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Respondent has been in rent arrears for three or more consecutive months of the tenancy and it is reasonable on account of that fact to issue an eviction order.

Background

1.This application for an eviction order in terms of Rule 109 of the tribunal rules of procedure was first lodged with the tribunal on 28th August 2024 along with a related application for a payment order with reference FTS/HPC/CV/24/3997.The applications were accepted by the Tribunal on 23rd September 2024.A case management discussion was fixed for 18th March 2025 and this was continued until 9th July 2025 at 2pm or the Respondent’s representative to take instructions.

Case Management Discussion 9th July 2025

2. At the case management discussion on 9th July 2025 The tribunal had sight of the applications, papers apart, a tenancy agreement, a Notice to Leave and an e-mail sending the Notice to Leave, pre action protocol letters, rent arrears e mails between the parties, a statement of rent arrears, a section 11 notice with an e-mail to the local authority, a further rent statement, an e-mail from the Respondent, an eviction process document and income and expenditure document, submissions from the Applicant's representative in February 2025, an e-mail withdrawing from acting dated 17th June 2025 from the Respondent's representative CHAI and an e-mail dated 23rd June 2025 from the Applicant's representative seeking to amend the amount being sought in relation to the payment order application and giving information regarding costs along with an up-to-date rent statement.

3. At the case management discussion on 9th July 2025 the Applicant was not in attendance but was represented by Mr Gray of Gilson Gray solicitors. There was no appearance by or on behalf of the Respondent. The tribunal members noted that at the earlier case management discussion the Respondent had been represented by CHAI but they had contacted the tribunal on 17th of June 2025 confirming that they were seeking to withdraw from acting from the Respondent due to a lack of response from her. The tribunal was concerned as to whether the Respondent was aware of the case management discussion on 9th July given that the notification of the date had been sent to the former representative. The tribunal also raised the question of whether the application to amend the sum being sought in the payment order application would be known to the Respondent given that this had been intimated on her former representative.

4. Mr Gray asked for time to contact the Respondent's former representatives to see if he could find out the position regarding notification of the case management discussion details to the Respondent. After a brief adjournment Mr Gray was able to advise that he had spoken to an adviser at CHAI who advised that the Respondent had missed three scheduled appointments and had been sent a letter in both English and Romanian dated 17th June 2025 giving the details of the case management discussion date for the teleconference. Mr Gray lodged a copy of the letter sent to the Respondent which had been passed to him by CHAI. Given this information the tribunal was satisfied that the Respondent had received fair notice of the case management discussion and that it was appropriate to proceed in her absence on both applications.

5. The parties had entered into a residential tenancy agreement at the property with effect from 25th October 2023. The monthly rent payable in respect of the tenancy was £900 per month payable in advance. Rent arrears started to accrue in terms of the tenancy in March 2024.

6. The Applicant understood that the Respondent was in occupation at the property with her husband and one child and the Respondent was the sole named tenant on the tenancy as her husband did not wish to be party to it. It was understood that the Respondent's husband was working but no information on the Respondent herself was known. The Applicant was not aware of any entitlement to Universal Credit, disability or other reasons that the Respondent might be considered vulnerable. There had been little communication between the Applicant and Respondent, but she had communicated in January 2024 concerning repairs to French windows at the property

and in July 2024 regarding the rent. The reasons for the non-payment of the rent were not known.

7. The Applicant is a commercial landlord and has nine properties within its portfolio. The tribunal was advised in terms of the Applicant's representations that as at the end of 2023 a very small profit had been made in terms of the enterprise which would be subject to tax. The property itself had secured borrowing, and a mortgage payment which was just under £380.00 per month. The sustained level of rent arrears accrued in terms of this tenancy meant that the Applicant could not subsidise the ongoing loss of rental income. At the time of the application to the tribunal the Applicant had already diverted funds from elsewhere in the portfolio to cover the shortfall on the mortgage payment. If an eviction order could not be granted it was suggested that the Applicant would have no option but to sell the property to mitigate ongoing losses.

8. The tribunal had sight of a Notice to Leave served on the Respondent by e-mail dated 19th July 2024. At the time of service of the Notice to Leave the last payment of rent which had been made was on 13th of March 2024 and the balance owed was £4050.00. An e-mail had been received from the Respondent dated 29th July 2024 in response to an email sent to her on behalf of the Applicant indicating that she would pay £1350.00 the following week and £900 the following month. Despite this e-mail no payments were made and at the date of the case management discussion in July 2025 rent arrears had accrued in the sum of £13,950.00, no payments at all having been made since March 2024.

9. There was discussion at the case management discussion of what had been said at the previous case management discussion by the former representative for the Respondent who had raised that there might be a need for an interpreter and if the Respondent would have an understanding of what was happening in relation to the application. Mr Gray confirmed that the tenancy had been signed in English, all correspondence had been sent to the respondent in English, and she had responded by e-mail using English.

10. The tribunal had sight of emails sent to the applicant in relation to the rent arrears which signposted her to sources of support if she was having difficulty with rent payments and these had been sent to the Respondent in April and June 2024. In July 2024 in response to an email regarding rent arrears dated in July 2024 the Respondent had indicated she would pay the arrears over 2 months and then would pay the monthly rent. No such payments were made.

11. The Applicant had submitted a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 to the local authority on 28th August 2024.

12. The Tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

13. The parties entered into residential tenancy at the property with effect from 25th October 2023

14. The monthly rent payable in respect of his tenancy is £900 per month payable in advance.

15. Rent arrears started to accrue in terms of the tenancy in March 2024.

16. E mails were sent to the Respondent by agents acting on behalf of the Applicant in April and June 2024 in relation to the rent arrears and signposting her to sources of support if she was in financial difficulty.

17. Emails were sent to the Respondent in July 2024 in respect of rent arrears and she responded to these indicating that she would make payment of the arrears over 2 months and would then pay the monthly rent.

18. Despite the Respondent's e-mail to the Applicant's representative indicating that she would clear the arrears in the summer of 2024 and continue to pay rent no rent payments have been made since March 2024.

19. The Applicant understands that the Respondent stays at the property with her husband and one child whose age is unknown.

20. The applicant has no information regarding eligibility for benefits on the part of the Respondent or any vulnerability and there is no information to suggest that rent has not been paid due to any failure or delay in the payment of a relevant benefit.

21. At the start of the tenancy the Respondent's husband was known to be working and it was understood that the Respondent was responsible for paying the rent and that it was not being paid in whole or in part by benefits.

22. The Applicant company is a commercial property enterprise with 9 properties and in the financial year ending December 2023 it made a very small taxable profit.

23. The Applicant company has secured borrowing on the property with a monthly mortgage payment of just under £380.00 per month.

24. The applicant company is being required to fund the secured borrowing from other resources as rent is not being paid in terms of the tenancy.

25. The Applicant company cannot continue to cover the mortgage from other resources and will require to sell the property if an eviction order it is not granted.

26. The Applicant served a notice to leave dated 19th July 2024 on the Respondent and this set out the eviction ground as Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that it stated that the tenant had been in arrears with the rent for at least three consecutive months of the tenancy.

27. The Notice to Leave indicated that an application to the tribunal would not be made before 19th August 2024 and stated that the rent arrears at that time were £4050.00.

28. The Applicant served a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 on the local authority on 28th August 2024.

30. The rent arrears accrued in terms of the tenancy at the end of June 2025 £13950.00 and the Respondent has been in rent arrears since March 2024. more than three consecutive months of the tenancy.

Reasons for Decision

The tribunal was satisfied that a Notice to Leave in proper form giving the appropriate notice had been served on the Respondent, a section 11 notice had also been intimated, and pre action protocol emails had been sent to the Respondent. Little was known about her circumstances but there was no suggestion that rent was being paid by any form of benefit or that there had been a failure in response in relation to a payment of benefit. The Respondent had made e-mail offers to repay the arrears which had not materialised. The Respondent did not engage with her representative at the tribunal who withdrew from acting and the Respondent did not attend the subsequent case management discussion. The Applicant is requiring to sustain secured borrowing on the property from other resources and cannot continue to do this. In all of the circumstances it is reasonable to grant the order.

Decision

The Tribunal determined determined that an eviction order be granted in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Respondent has been in rent arrears for three or more consecutive months of the tenancy and it is reasonable on account of that fact to issue an eviction 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.



Legal Member/Chair

Date 9.7.25

