

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 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/5311

Re: Property at 360/7 Broomhouse Road, Edinburgh, EH11 3US (“the Property”)

Parties:

Edinburgh Living MMR LLP, registered in Scotland (SO306071) and having their registered office at Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, represented by Umega Lettings, 496 Ferry Road, The North Quarter, Edinburgh, EH5 2DL (“the Applicant”)

Mr Craig Sanderson, 360/7 Broomhouse Road, Edinburgh, EH11 3US (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application could be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

1. By application, dated 20 December 2024, the Applicant sought an Eviction Order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Grounds relied on were Grounds 11 and 12 of Schedule 3 to the 2016 Act, namely that the Respondent has failed to comply with a term of the tenancy and that he has been in rent arrears for three or more consecutive months.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties, commencing on 25 November 2021 at a rent of £560 per month, a Notice to Leave, dated 20 September 2024, advising the Respondent that the Applicant was seeking an Eviction Order under Ground 12 of Schedule 3 to the 2016 Act and that an application to the

Tribunal would not be made before 21 October 2024, and a Rent Statement showing arrears as at 1 November 2024 of £7,029. The Respondent had paid no rent since 28 June 2024. The Rent Statement indicated that the rent was increased to £576 per month on 1 August 2023 and to £598 per month on 1 August 2024. The Applicant also provided evidence showing that the pre-action protocols had been complied with by emails to the Respondent of 24 July and 23 August 2024, which signposted him to sources of possible help and assistance.

3. On 12 April 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 3 May 2025. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the morning of 17 July 2025. The Applicant was represented by Miss Claire Smith of Umega Lettings, Edinburgh. The Respondent was not present or represented.
5. The Applicant's representative told the Tribunal that the Respondent had paid no rent since the date of the application and that the arrears currently stand at £11,813, as per an updated Rent Statement which had just been sent to the Tribunal. The Applicant's representative had no knowledge of any health issues or vulnerabilities affecting the Respondent and confirmed that it was understood that he lives alone in the Property.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
7. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 applies.
8. Ground 11 of Schedule 3 to the Act states that it is an eviction ground that the tenant has failed to comply with an obligation under the tenancy and that the Tribunal may find that Ground 12 applies if the tenant has failed to comply with a term of the tenancy and the Tribunal considers it reasonable to issue an Eviction Order on account of that fact. The reference to a term of the tenancy does not, however, include the term under which the tenant is required to pay rent. As the present application related solely to failure to pay rent, Ground 11 did not apply and the Tribunal did not consider it further.

9. Ground 12 of Schedule 3 to the Act states that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal may find that Ground 12 applies if, at the beginning of the day on which the Tribunal first considers the application for an Eviction Order on its merits, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and has been in in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, that the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and the Tribunal is satisfied that it is reasonable on account of that fact to issue an Eviction Order.
10. The Tribunal was satisfied that the Respondent has been in rent arrears for three or more consecutive months and that the current arrears exceed one month's rent. No rent at all has been paid for more than a year. No evidence had been presented to indicate that the Respondent being in arrears might be wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. The Tribunal also noted that the Respondent had not made any written representations and that he had chosen not to be present or represented at the Case Management Discussion to offer any information for the Tribunal to consider in determining whether it would be reasonable to issue an Eviction Order against him.
11. Having considered carefully all the evidence before it, and in particular the amount of the arrears and the fact that no payments had been made at all since June 2024, the Tribunal decided that it would be reasonable to issue an Eviction Order under Ground 12 of Schedule 3 to the 2016 Act.
12. The Tribunal's Decision was unanimous.

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.

George Clark

Legal Member/Chair

17 July 2025
Date