

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/25/0813

Re: Property at 1 2F1 Wheatfield Road, Edinburgh, EH11 2PS (“the Property”)

Parties:

John Alexander Laird, 6 Craigmount Loan, Edinburgh, EH12 8DJ (“the Applicant”)

Jolanta Agnieszka Duszynska-Wcislo, Kaci Bedrici, Maja Stanczuk, 1 2F1 Wheatfield Road, Edinburgh, EH11 2PS (“the Respondents”)

Tribunal Members:

Richard Mill (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted against the respondents

Introduction

1. These are linked applications between the same parties. The first application seeks an eviction order and is under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The second application seeks a payment order relating to arrears of rent and is under Rule 111 and Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. Service of the applications and intimation of the Case Management Discussions (CMDs) were effected by Sheriff Officers on the respondents on 15 April 2025.
3. The CMD hearing in both cases took place by teleconference on 24 July 2025 at 2.00 pm. The applicant was represented by David Gray, Gilson Gray LLP.

There was no appearance by any of the respondents. No representations had been received from any of them.

Findings and Reasons

4. The property is 1 (2F1) Wheatfield Road, Edinburgh EH11 2PS. The applicant is Mr John Laird who is the heritable proprietor and registered landlord. The respondents are Jolanta Agnieszka Buszynska-Wcislo, Kaci Bedrici and Mija Stanczuk who are the named tenants. A private residential tenancy was entered into between the parties which commenced on 22 December 2021. The rent stipulated was £800 per month.
5. The respondents have fallen into significant arrears of rent throughout the duration of the lease. The rent arrears have continued to rise after the recovery application was lodged. On 7 July 2025 the applicant made a timeous Rule 14A amendment application to increase the amount sought to be recovered. At that date, the arrears were £8,800. The amendment application also highlighted that a further rent payment of £800 was to fall due to be paid on 1 July 2025 in advance of the case management discussion and that that additional sum would be sought if unpaid. It was unpaid. This results in a total sum claimed in respect of rent arrears of £9,600.
6. The amendment application lodged also sought 'reasonable costs'. This aspect of the application was withdrawn at the hearing.
7. The applicant is entitled to recover arrears of rent due under and in terms of the written lease between the parties. The Tribunal therefore granted a payment order against the respondents in the sum of £9,600. There is no opposition by the respondents and no application for a time to pay direction has been made by the respondents.
8. The applicant also seeks interest from the date of decision until payment. This is fair and reasonable. 4% per annum is an appropriate rate of interest to be imposed in the current commercial climate.
9. The eviction is based upon the arrears of rent and the ground relied upon is ground 12 of schedule 3 to the 2016 Act, namely that the respondents are in rent arrears over three consecutive months.
10. The Tribunal found that the notice to leave upon which the eviction application proceeds is valid. It is dated 16 January 2025. This states that an application will not be submitted to the Tribunal for an eviction before 15 February 2025. There is evidence that the notice to leave was served upon the respondents by Sheriff Officers on 17 January 2025. The required statutory notice period was given to the respondents.
11. The Tribunal was satisfied that more than three consecutive months of rent was outstanding at the time that the notice to leave was served and also remains unpaid by the respondents. This establishes ground 12.

12. The Tribunal proceeded to consider the issue of reasonableness.
13. The applicant is adversely affected financially by the absence of rent being paid. The rent arrears are significant. It is unreasonable to require the applicant to continue to provide accommodation to either respondent in the absence of rent being paid. The property is not subject to a mortgage, however outgoings for landlord registration, insurance and other costs, equate to £159 per month. Without the income generated from a paying tenant the applicant is unable to afford the repairs and maintenance necessary to restore the property to an acceptable standard
14. The first respondent is believed by the applicant that she is employed full-time with Marriot hotels and is not entitled to any welfare benefits, including Universal Credit. The personal profiles and employment status of the other two respondents is unknown. There are no dependent children in the property. None of the respondent s are known to have vulnerabilities.
15. The most recent property inspection was carried out on 17 April 2025 and a copy of that has been produced and is relied upon by the applicant. This evidences that the property is not being maintained to an acceptable standard by the respondents. Requests for access in order for the applicant to attend to the issues arising and which have been identified have been rebuffed. The applicant's managing agents have been refused access claiming that the respondents had changed their contact details and had not been given adequate notice. Attempts have been made to engage with the respondents via this new contact information without success. In particular the mobile number provided is invalid.
16. There is evidence that the local authority has been advised of the eviction proceedings with a section 11 notice having been issued by the applicant. In the event of an eviction order being granted the local authority has an obligation to make alternative accommodation available to the respondents. The Tribunal found that the rent arrears pre-action requirements have been adequately fulfilled by the applicant.
17. In all of the circumstances, the Tribunal determined it was reasonable to grant the eviction order sought by the applicant.

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.

24 July 2025

Legal Member/Chair

Date