



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 (“the 2016 Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Regulations”)

Chamber Ref: FTS/HPC/EV/24/5109

Re: Property at Flat 5/4, 220 Duke Street, Glasgow, G31 1JB (“the Property”)

Parties:

Home Group Limited, 1 Strawberry Lane, Newcastle Upon Tyne, NE1 4BX (“the Applicant”)

Mr Graeme Dodds, Flat 5/4, 220 Duke Street, Glasgow, G31 1JB (“the Respondent”)

Tribunal Member:

Nicola Weir (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession of the property be granted.

Background

1. The application submitted on 6 November 2024 sought an eviction order on Ground 12 (rent arrears for three consecutive months) of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”). An application for a payment order in the sum of £6,340.14 in respect of the rent arrears owing at that time was also submitted. Supporting documentation was submitted in respect of the applications and they were conjoined and proceeded together.
2. Following initial procedure, on 2 December 2024, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of

Acceptance of Application in terms of Rule 9 of the Regulations in respect of both applications.

- 3 Notification of the applications and details of the CMDs fixed for 30 May 2025 was served on the Respondent by way of Sheriff Officer on 25 March 2025. In terms of said notification, the Respondent was requested to lodge any written representations. No written representations were lodged prior to the CMD.
- 4 On 9 May 2025, the Applicant's solicitor lodged an application to increase the sum claimed in the payment application to £11,271.36, together with an updated rent statement, all in terms of Rule 14A. Their application and updated rent statement had also been sent direct to the Respondent by recorded delivery post but was also circulated to the Respondent by the Tribunal by post.

Case Management Discussion

5. The Case Management Discussion ("CMD") took place by telephone conference call on 30 May 2025 at 10am and was attended by the Applicant's solicitor, Ms Callaghan of TC Young, solicitors and by the Respondent, Mr Graeme Dodds.
6. Following introductions and introductory remarks by the Legal Member, Ms Callaghan confirmed that the Applicant was still seeking the two orders sought and that, in respect of the payment application, the increased sum of £11,271.36 plus interest was sought.
7. It was noted that the Private Residential Tenancy had commenced on 1 February 2024 but had been in arrears throughout, with only an initial rental payment/deposit payment having been made, and no payments since. The rent in terms of the tenancy is £704.46 per calendar month.
8. Mr Dodds was asked to state his position in relation to the two applications. He admitted that the rent arrears were due but hopes to remain in the tenancy as he should be in a position to pay off the whole arrears from inheritance monies he is expecting to receive and pay the ongoing rent from his benefits which are being increased. He explained that the arrears had arisen because of fraud on his bank account and due to a deterioration in his mental health. He used to work as a support worker with the Salvation Army when he obtained the tenancy but is now only in receipt of benefits. He secured benefits two months ago and stated that he receives £690 per month in Universal Credit plus a further £330 per month. He has not made any payments yet towards his rent account. He denied having received the 'pre-action protocol' letters said to have been sent by the Applicant, offering him different forms of support, etc and said he had had no contact with the local authority about alternative housing options. He stated that he has had problems with his mail. He stated that he has had a few conversations with the Applicant landlord and explained his position to them. However, his housing officer has recently changed. He claimed that he

had had a dispute with his previous housing officer and alleged that there had been a GDPR breach. His housing officer had had a discussion with his friend who is staying with him at the flat, Mr Ernest Bunyan, due to Mr Bunyan being homeless. Mr Bunyan's social worker was also at the meeting and Mr Dodds explained that he objected to them having discussions about him in his absence. Mr Dodds obtained a two-bedroom flat as he has a child with whom he is currently seeking access through the court. He said that he was trying to get Mr Bunyan onto the tenancy so that he could help with the rent. Mr Dodds was accused of sub-letting to Mr Bunyan and taking rent from him. He denied this but did concede that Mr Bunyan's benefits are paid into Mr Dodds' bank account due to him being homeless and not having a bank account.

9. Mr Dodds stated that he hopes to receive money from his late mother's estate soon, as his brother has already received payment. His mother had died in Belfast in February 2025 and Mr Dodds confirmed he has been in contact with the solicitors in Belfast who are handling his late mother's estate. He has recently had to send them his passport. He expects to receive between £80,000 and £95,000 in respect of his share of the inheritance. Mr Dodds confirmed that he would be able to produce proof of this, as well as proof of his entitlement to benefits. He intends to make a payment towards rent next week.
10. Ms Callaghan was asked to comment. She was aware from her notes of the alleged situation of Mr Dodds charging rent to a homeless person for letting him stay at the flat. She confirmed that she was still seeking orders on behalf of the Applicant at the CMD, given the background to the rent arrears, his failure to engage with the Applicant and the uncertainty as to when or if payment would be made by Mr Dodds. She explained that this was the highest rental arrears owing on any single property let out by the Applicant and the Applicant's concern is that arrears will continue to rise. Ms Callaghan explained the impact on the Applicant from such significant rent arrears, which she stated affects maintenance and upkeep, etc of their remaining housing stock. Ms Callaghan advised that she does not know what tenancy checks, etc were carried out on the Respondent before he was offered this tenancy. She then explained that it has now come to her attention that, although the rent statement shows initial payments having been made by the Respondent in February 2024, the Applicant has confirmed that these payments did not in fact make it into their bank account. It appeared that the Respondent had seemingly made these payments by way of an online bank transfer at the tenancy sign-up but, for whatever reason, the payments did not actually arise. In the circumstances, Ms Callaghan explained that there was actually more owing than was stated, but the Applicant was still just seeking the sum mentioned above in the context of today's proceedings. Ms Callaghan submitted that it was reasonable, in the circumstances, from the Tribunal to grant an eviction order at the CMD.
11. The Tribunal Members adjourned briefly to discuss the applications in private and, on re-convening, confirmed that it had been decided to adjourn the CMDs and not grant orders at this stage. This was to provide the Respondent with an opportunity to provide evidence in support of what he has stated and to demonstrate that rental payments will now commence. The Tribunal will grant

a formal Direction, requiring this documentation to be lodged within 28 days of today and it was explained to Mr Dodds that if he fails to comply with this Direction, the Tribunal may decide to grant final orders without requiring a further hearing which the Tribunal can do in terms of the Procedure Rules. It was explained that the Direction and other paperwork will explain exactly what the Tribunal requires from the Respondent but that this will include proof regarding his expected inheritance, proof of the benefits he receives, medical evidence in respect of his stated health difficulties and proof that he has commenced payments towards his rent. The Tribunal would also seek an amended rent statement from the Applicant, given that it appears there may be an inaccuracy in the existing statements lodged. Given Mr Dodds' stated issues with his post, an updated email address was received from him, together with his consent to the Tribunal communicating with him by that method, as well as by post. Parties were thanked for their attendance and the CMDs concluded.

12. Following the CMDs, a detailed CMD Note reflecting the above was issued to parties, together with a formal Direction in the following terms:-

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1. The **Applicant** is required to lodge an amended and updated Rent Statement.

2. The **Respondent** is required to lodge:-

(a) *correspondence from the solicitors acting in respect of the Respondent's late mother's estate, confirming that the Respondent is a beneficiary in the estate and details of his expected inheritance from the estate, or any other documentary evidence in this regard;*

(b) *evidence of the Respondent's entitlement to benefits, showing when these payments started, a breakdown of same and to include details of any payments of Universal Credit being paid towards his housing costs;*

(c) *a fully completed Time to Pay application (available on the Tribunals' website), confirming the amount he is offering to pay and when;*

(d) *evidence of any payments made by the Respondent towards his rent account;*

(e) *any medical or other evidence in respect of the Respondent's stated health conditions or other personal circumstances, such as the situation concerning his child, that the Respondent wishes the Tribunal to consider in their assessment of the reasonableness of granting the eviction order sought by the Applicant.*

(f) *Details and dates of when he lost his employment with the Salvation Army; and*

(g) *Details and dates of when the fraud on his bank account took place.*

The documentation referred to above should be lodged with the Tribunal Administration no later than 28 days from today (27 June 2025).”

Further Procedure

13. On 24 June 2024, the Applicant complied with the Direction by lodging an updated Rent Statement, showing that the arrears balance had now risen to £11,975.82 and that no payment towards rent arrears had been made by the Respondent since the CMDs, despite his verbal assurances at the CMDs that payments would commence. This was circulated to the Respondent by the Tribunal.
14. There has been no response to the Direction from the Respondent, nor any contact made by him to the Tribunal.
15. On 1 July 2025, the Applicant's representative emailed the Tribunal enquiring whether there had been any response from the Respondent to the Direction and, if not, whether the Tribunal had made their Decision on the applications, as had been discussed at the CMDs. The Tribunal confirmed that there had been no response from the Respondent and issued a reminder to him on 14 July 2025, requesting a response within 7 days, failing which he was advised that the Tribunal may proceed to make their decision without assigning a further hearing. No response was received. On 24 July 2025, the Applicant's representative emailed the Tribunal requesting a further update. It was noted that no response had been received from the Respondent, despite the reminder dated 14 July 2025 having been sent to him both by email and recorded delivery post and the recorded delivery post having been signed for on behalf of the Respondent on 17 July 2025.
16. In the circumstances, the Tribunal has now further considered the applications in view of the further submissions from the Applicant's representative and the continuing lack of response from the Respondent and has determined that there was no requirement for a further hearing to be convened. Accordingly, the Tribunal decided to determine the application without a further hearing in terms of Rule 18 of the Procedure Regulations.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on or around 1 December 2024.
3. The rent due in respect of the tenancy is £704.46 per calendar month.
4. The Respondent has failed to pay rent since the tenancy commenced.
5. Arrears amounted to £4,226.76 by the time the Notice to Leave was served in August 2024, £6,340.14 when this application was lodged, and £11,271.36 as at 9 May 2025 when an application to amend the applications was submitted.

6. The arrears owing as at 24 June 2025 when the updated rent statement was lodged by the Applicant had increased further to £11,975.82.
7. The Applicant has sought to engage with the Respondent throughout concerning the rent arrears and issued several communications to him in respect of the 'pre-action protocol'.
8. The Respondent has not engaged with the Applicant regarding the arrears situation nor sought to resolve the arrears.
9. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by Sheriff Officer on 2 August 2024.
10. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 31 August 2024.
11. The Tribunal Application was submitted on 6 November 2024.
12. The Respondent has remained in occupation of the Property.
13. The Respondent has been called upon to make payment of the rental arrears or enter into a satisfactory payment arrangement but has failed to do so.
14. The Respondent has been in arrears of rent for three or more consecutive months.
15. There is no indication that the arrears have arisen wholly or partly as a result of a failure or delay in the payment of relevant benefits.
16. The Respondent attended the CMD and admitted the rent arrears, although stated that he wished to resolve same and retain the tenancy.
17. The Respondent did not comply with the Tribunal's Direction issued following the CMD and has not engaged further with the Tribunal since.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, the oral information provided at the CMD on behalf of the Applicant and by the Respondent, and the further written submissions on behalf of the Applicant.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the requisite period of notice (28 days) had been served on the Respondent and that the application was made timeously to the Tribunal,

all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.

3. The Tribunal noted that the Respondent had not paid any rent since the tenancy commenced and that arrears had risen to £11,975.82 as at 24 June 2025. The Tribunal was satisfied that these arrears were significant and were impacting negatively on the finances of the Applicant who were a social housing provider, as well as a landlord of 'mid-market rent' properties, such as this Property. Although the Respondent had offered various explanations at the CMD for his failure to pay rent and had expressed the wish to resolve the arrears and retain the tenancy, he had been given an opportunity to lodge supporting documentation but had failed to do so. He had not complied with the Tribunal's Direction within the time limit stated, not the Tribunal's reminder in this regard. He had also failed to commence payments towards the rent arrears which he had stated at the CMD was his intention.
4. As the Respondent had been informed at the CMD, and subsequently in writing, the Tribunal accordingly decided to determine the matter without a further hearing in terms of Rule 18 of the Procedure Regulations which states as follows:-

"Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties."

5. The Tribunal was satisfied that the ground for eviction was met. The rent had been in arrears for more than three consecutive months when notice was served and, in fact, no rental payments had been made since the tenancy commenced in February 2024. The Applicant had sought to engage with the Respondent regarding the arrears and had issued correspondence to him in respect of the 'pre-action protocol'. The Respondent had not engaged with the Applicant, nor taken any steps to resolve the arrears situation. He had provided

details of his state benefits at the CMD and it appeared that he had now had means to pay the rent from his benefits income. There was no indication that he was awaiting payment of benefits or that benefits issues had contributed to the arrears situation. He had not made any payments towards rent or the arrears to demonstrate his goodwill in the matter, following the CMD, despite having stated an intention to do so. The Tribunal had no reason to believe that any rental payments would be made by the Respondent and accordingly, it appeared to the Tribunal that it was likely that the significant arrears would simply continue to rise. In all the circumstances, the Tribunal considered it reasonable to grant the eviction order sought. The Tribunal did not have any material before it to contradict the Applicant's position, nor to advance any reasonableness arguments on behalf of the Respondent. The pertinent facts, namely the arrears, were admitted by the Respondent. The Tribunal accordingly determined that an order for eviction could properly be granted at this stage of the proceedings and that there was no necessity to adjourn the application to an Evidential Hearing.

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.

Nicola Weir

Legal Member/Chair _____

11 August 2025
Date