



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/24/2829

Re: Property at 3 Alberta Crescent, East Kilbride, G75 8HZ (“the Property”)

Parties:

Greg Anderson, Lee McDowell, 52 Gullion Park, East Kilbride, G74 4FE; 81 Crossmyloof Gardens, Shawlands, G41 4AY (“the Applicant”)

Hubert Ladynski, 3 Alberta Crescent, East Kilbride, G75 8HZ (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. Two applications were made under Rule 111 and 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment and an order for recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.

2. The applications contained: -
 - a. the tenancy agreement,
 - b. the notice to leave with evidence of service
 - c. section 11 Notice with evidence of service
 - d. rent statement
 - e. emails to the tenant about pre-action requirements.
3. There were two case management discussions that were held on 11 March and 30 July 2025.
4. The respondent had appeared at the first case management discussion. He had submitted that he had paid more rent than had been shown on the rent statement. He was asked to provide evidence to support this position. He did not submit any information in support of that position.
5. The applicant submitted further correspondence to the tribunal, including an updated rent statement and insurance documentation. The papers submitted showed the payments which had been recorded as being made by the respondent.
6. A third case management discussion took place on 7 October 2025. In attendance was the applicant's agent, Mr Jackson Deane from Bannatyne Kirkwood France and Co. The respondent did not appear.

Discussion

7. The applicant's agent advised that the applicant was seeking an order for recovery of possession of the property under ground 12 (three months' rent arrears).
8. The applicant was also seeking an order for payment of the amended sum of £5,385.00 together with contractual interest at 8%. The applicant's agent advised that he had sent the updated rent statement to the respondent at the

same time as he had sent it to the tribunal. He moved to amend the sum sued to £5,385.00. The tribunal granted this amendment.

9. He advised that the rent arrears had been increasing since the notice to leave was served and the application was made.
10. The agent advised that there was no information that the delay in the payment of rent was due to a delay in housing benefit. He advised that there had been no information provided by the respondent which showed any extra payments that the respondent had alleged to have made. He advised that the respondent makes some payments for rent, but the payments fell short of the required rent amount, and there was no payment to the arrears. The rent arrears are increasing. He had little information about the respondent's circumstances. He advised that the applicants owned 12 properties together, and this property was subject to a mortgage. Notice to leave was served in April 2024, and the respondent had notice from this time that the landlord sought eviction for the non-payment of rent. He has had well over a year to address this issue, yet he has not done so. The arrears have increased since the first case management discussion; they were £4,065 on that date. If an order is granted, the local authority will be obliged to provide advice to the respondent. He advised that the respondent is in contact with the landlords direct, he has engaged to some extent, but that has not led to him paying his rent and something to the arrears.

Findings in Fact

11. The Tribunal found the following facts established: -
12. There existed a private residential tenancy.
13. The tenant was Hubert Radoslaw Ladynski.
14. The landlord is Greg Anderson.
15. The property was 3 Alberta Crescent, East Kilbride.
16. It had commenced on 27 March 2020.

17. The tenancy stated that rent was £495 a calendar month payable in advance.
18. There was submitted a notice to leave dated 4 April 2024, stating that an application would not be made until 5 May 2024. It sought eviction under ground 12, rent arrears. It set out that the respondent had been in rent arrears for more than three consecutive months. The notice to leave had been emailed to the tenant. There was evidence of service.
19. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service.
20. On 4 April 2024, rent arrears were £2,710.00.
21. As of 7 October 2025, the arrears were £5,385.00.
22. There were arrears on the rent account since at least 28 February 2023.
23. The last payment to rent was made on 9 July 2025.
24. There was evidence that the pre-action protocol requirements had been followed.
25. There was no evidence of failure or delay in any benefit payment to the respondent.
26. The respondent had regularly failed to pay their rent and arrears. The arrears had been accruing.
27. The respondent had failed to enter into a repayment arrangement with the landlords.
28. The property was subject to a mortgage.

Reasons for Decision

29. Section 51 of the 2016 Act provides the Tribunal with the power to grant an order for eviction for a private residential tenancy if it finds that one of the grounds in Schedule 3 of the Act applies.
30. The ground which the Applicant seeks eviction under is ground 12. It is in the following terms :-

12 Rent arrears

(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2) [...]2

(3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

(a) for three or more consecutive months the tenant has been in arrears of rent, and

(b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.

(4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider [—] 3 [

(a) whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and

(b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.] 3

(5) For the purposes of this paragraph— ...

31. The applicant's agent confirmed that they sought an order for eviction based on the fact that the respondent had been in rent arrears for three or more consecutive months. When the notice to leave was served on 4 April 2024, the respondent had been in rent arrears for well over three months. The arrears had continued to accrue since April 2024. There did not appear to be any benefit issues which were causing the arrears. It appeared that the first part of ground 12 was met.

32. Given that the first part of the ground is met, the tribunal is therefore required to proceed to consider whether it would be reasonable to grant the order.

33. We find it would be reasonable to grant the order for eviction; in coming to this conclusion, we took into account the following matters:-

34. Matters in support of granting the order were as follows:- The arrears were now more than £5,000.00. Arrears had been accruing since around February 2023. The respondent had been served the notice to leave in April 2024 and had over a year to address the rent arrears. The applicant has a mortgage

over the property. The payments made were not consistent and the arrears continued to accrue. There were no proposals to repay the arrears.

35. Matters against the order being granted were that the applicant was a small commercial enterprise and should expect to take some risk renting out properties.

36. In balancing up the various factors before us, we do not consider that the factors against the order being granted outweigh the reasons why it should be granted. While the applicant may expect to suffer some financial risk in renting out properties, they were a small commercial enterprise, and they relied on the rental income to repay the mortgage on the property. There have been attempts by the applicant and their agent to try and engage with the respondent to pay the rent; the attempts have been unsuccessful. The arrears are now over £5,000, which is a significant sum of money. There is no apparent reason for the failure to pay the rent or the arrears. We considered that the attempts made by the applicant were reasonable. We consider it would be reasonable to grant an order for eviction.

37. Accordingly, considering the papers before us and the oral submission by the applicant's agent, the tribunal was prepared to grant the order for recovery of possession, given that the first part of ground 12 was met and in all the circumstances it appeared to us to be reasonable to grant the order.

Decision

38. The Tribunal grants an order in favour of the Applicants against the Respondents for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Melanie Barbour

Legal Member/Chair

Date: 7th of October 2025