



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) Act 2016

Chamber Ref: FTS/HPC/EV/25/0637

Re: Property at Flat 7, 7 Seacole Square, Edinburgh, EH16 4ZF (“the Property”)

Parties:

PFPC MMR 1, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Ms Rabiah Butt and Ms Ayshah - Ayub Butt, both of Flat 7, 7 Seacole Square, Edinburgh.EH16 4ZF (“the Respondents”)

Tribunal Members:

Valerie Bremner (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (In Absence of the Respondents)

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 for three or more consecutive months the Respondent tenants have been in arrears of rent 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 14th February 2025 and accepted by the Tribunal on 14th March 2025. A case management discussion was fixed for 25th August 2025 at 10am for this application and the conjoined application for a payment order with reference FTS/HPC/CV/0644.

The Case Management Discussion

2. The case management discussion was attended by Mr Caldwell solicitor of Patten and Prentice Solicitors, who represented the Applicant’s agents Touchstone. He was

joined on the call by one of his colleagues who was observing. The Respondents did not attend nor were they represented. The Tribunal had sight of an execution of service of both applications, supporting papers and the time of the case management discussion which had been served on both Respondents by Sheriff Officer leaving these in the hands of the Respondents' mother at the property on 10th July 2025. The Tribunal was satisfied that it was appropriate to proceed in the absence of the Respondents given that they had been given notice of the applications and the date of the case management discussion

3. The Tribunal had sight of the applications, a tenancy agreement, pre action protocol letters, for both Respondents a Notice to Leave the property, proof of delivery of the Notice to Leave, a notice in terms of section 11 of the Homelessness etc. (Scotland) Act 2003 together with an email sending this to the local authority, emails sent to the Respondents, four rent increase notices, a number of rent statements and a letter dated 18th August 2025 from the Applicant's solicitor to the Tribunal advising of up-to-date information received regarding the Respondents.

4. The parties had entered into a private residential tenancy at the property, with effect from 8th October 2021. Monthly rent payable in terms of the tenancy agreement was initially £775.00 per month and was increased to £816.85 per month with effect from 1st May 2022, then increased to £841.36 per month with effect from 4th July 2023, then increased to £875.00 per month in July 2024 and finally increased to £896.89 per month in July 2025.

5. Mr Caldwell advised the Tribunal that the Respondents are two sisters whose parents were understood to own a property in Edinburgh, but it was understood that the Respondents had chosen to rent to have more space. It was believed that the second Respondent may have moved out of the property some 2 years before the case management discussion, but it was understood that the First Respondent still lived at the property. There had been a request made by the first Respondent's husband to take over the tenancy, but this had been declined due to the accrued rent arrears. The Applicant's solicitor has received emails from both of the Respondents indicating that they wished to terminate the tenancy with effect from 30th August 2025 and that all belongings would be removed from the property and the keys returned.

6. Despite this information, Mr Caldwell indicated that he wished to seek an eviction order in terms of Ground 12 of Schedule 3 of the 2016 Act given the rent arrears accrued over the tenancy. He said that it was reasonable for the order to be granted given that there were reservations that the Respondents would actually move out of the property. If they did not, then the Applicant would be prejudiced and have to wait a number of additional months before an order could be sought. He also had a concern that that one of the Respondent's family members might be living there since the First Respondent's husband had been keen to take over the lease earlier in 2025.

7. Mr Caldwell advised that rent arrears now accrued totalled £7567.71 and the rent statements showed a pattern of missed or partial payments. The sum in arrears included rent due from 1st August 2025 for that month. The Applicant's agent had never been advised that there was any issue in paying the rent due to a missed or delayed payment of a relevant benefit.

8. The Tribunal had sight of a Notice to Leave dated 18th October 2024 for each of the Respondents setting out the eviction ground and indicating that an application for eviction would not be made to the Tribunal until 18th November 2024. The Tribunal had sight of proof of delivery of these Notices by Sheriff officers posting these through the letterbox at the property on 18th October 2024. At the time the Notice to Leave were served rent arrears totalled £5788.93. On 11th February 2025 the Applicant's agent's solicitor sent a pre-action protocol letter by email to both Respondents signposting them to sources of support if they were having difficulty in paying the rent.

9. A notice in terms of Section 11 of the Homelessness etc. (Scotland) Act 2003 was sent by email to Edinburgh Council in relation to this application on 11th February 2025.

10. 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

11. The parties entered into a private residential tenancy at the property with effect from 8th October 2021.

12. Rent payable in terms of the tenancy was initially £775.00 per month, and this was increased to £816.85 per month in 2022, then increased to £841.36 per month in 2023, then to £875.00 per month in 2024 and finally to £896.89 per month in 2025.

13. All rent increases were properly intimated to the Respondents in advance of the increases taking effect, giving them the required statutory notice.

14. Rent arrears amounting to £5788.93 had accrued in terms of the tenancy by October 2024.

15. At no stage during the tenancy was the Applicant or agent ever advised that the rent arrears had accrued due to a delay or failure in the payment of a relevant benefit to or on behalf of the Respondents.

16. Notices to Leave dated 18th October 2024 setting out the eviction ground and indicating that an application to the Tribunal would not be made before 18th November 2024 were served by Sheriff officers on the Respondents on 18th October 2024.

17. A notice in terms of section 11 of the Homelessness etc. (Scotland) Act 2003 was sent to Edinburgh Council on 11th February 2025 in relation to this application.

18. pre-action protocol letters were emailed to the Respondents on behalf of the Applicant on 11th February 2025 and these signposted the Respondents to sources of support in respect of payment of the rent arrears.

19. In 2025 the first Respondent's husband requested that the tenancy be put in his name, but this was declined by the Applicant due to rent arrears accrued during the tenancy.

20. On 18th and 19th August 2025, the Respondents emailed the Applicant's agents to advise that they would leave the property and remove their belongings by 30th August 2025.

21. In August 2025 the rent arrears total £7567.71 and these have accrued since early in the tenancy and over a period of more than 3 consecutive months.

Reasons for Decision

The Tribunal was satisfied that the appropriate procedures had been carried out in respect of the application and that it was reasonable to grant an eviction order given the level of rent arrears accrued in terms of the tenancy. The Respondents' circumstances were unknown and although they had indicated to the agents they would leave the property some days after the case management discussion it was not clear if this would happen and the Applicant could be prejudiced further if an order was not granted and the Respondents did not vacate the property when they said they would leave.

Decision

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 for three or more consecutive months the Respondent tenants have been in arrears of rent 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

Valerie Bremner

25.8.25

Legal Member/Chair

Date