



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber)**

**Chamber Ref: FTS/HPC/EV/23/1550**

**Re: Property at 4/4 Calder Grove, Edinburgh, EH11 4ND (“the Property”)**

**Parties:**

**Mr Ross Gladwin, 60 Barntongate Drive, Edinburgh, EH4 8BY (“the Applicant”)**

**Mrs Khasha Smith, 4/4 Calder Grove, Edinburgh, EH11 4ND (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**BACKGROUND**

1. By lease dated 23<sup>rd</sup> January 2021 the Respondent rented the Property from the Applicant. The start date of the tenancy was 23<sup>rd</sup> January 2021.
2. The rent payable is £895.00 per calendar month payable in arrears.
3. The Respondent fell into arrears of rent. A Notice to Leave was served upon the Respondent on 1<sup>st</sup> April 2023. As at that date the arrears of rent amounted to £2,940.57.
4. The Notice to Leave served upon the Respondent also sought an eviction order under grounds 14 and 15 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”), that being the Respondent has engaged in relevant antisocial behaviour and, separately, that the tenant has associated in the let property with a person who has a relevant conviction or has engaged in relevant antisocial behaviour.

5. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.

## **THE CASE MANAGEMENT DISCUSSION**

6. A Case Management Discussion was assigned to call on 13 October 2023 at 2pm by way of teleconference. The Applicant participated in the Case Management Discussion. The Respondent did not participate. The Tribunal, however, was in receipt of a certificate of intimation by Sheriff Officers confirming that the proceedings had been intimated upon the Respondent. In the circumstances, the Tribunal was satisfied in terms of Rule 24 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the FTT Regs") that the respondent had received intimation of the date and time of the Case Management Discussion and considered that it was appropriate to proceed with the Case Management Discussion in the absence of the Respondent in accordance with Rule 29 of the FTT regs;
7. The Applicant advised the Tribunal that arrears of rent have existed since the commencement of the lease and have continued to accrue. He has, however, made an arrangement with the Local Authority for Housing Benefit to be paid directly to him. Despite that, there is still a shortfall in rental payments of £36.51 per month. There are still significant arrears, although they are increasing at a slower rate than previously. As at the date of the Case Management Discussion the arrears of rent amounted to not less than £3,000.
8. In addition, the Applicant has been indulging in antisocial behaviour within and in the vicinity of the Property. The Applicant produced to the Tribunal a letter from Police Scotland confirming that in the period from 30 August 2022 until 17 January 2023 there were 13 separate calls to Police Scotland requiring Police to attend at the property for a variety of reasons including:-
  - A disturbance at the property involving a male with a knife.
  - Welfare concerns in relation to a male at the property.
  - A disturbance at the property.
  - An ongoing domestic incident involving shouting and banging.
  - An allegation of drink driving.
  - A person smashing up the property.
9. Of the 13 calls Police Scotland advise that one of them was established to be a malicious call. Most, if not all of the reports to police were made by neighbours who were affected by the antisocial behaviour.
10. The Applicant in addition, provided further information to the Tribunal confirming that, since the application was presented to the Tribunal, there have been further incidents of antisocial behaviour, the police most recently attending on 1 August 2023 (incident number 295301082023).
11. In the absence of any participation in the proceedings by the Respondent, and having regard to the information made available to the Tribunal, the Tribunal was satisfied that there has, indeed, been and continues to be incidents of antisocial behaviour at and in the vicinity of the property.

12. In relation to the personal circumstances of the Respondent, the Applicant advised that, to the best of his knowledge, the position is as follows:-

- Only the Respondent should be staying at the Property.
- Police Reports and neighbours report to the Applicant that a male person stays there also.
- The Applicant has two children but the children do not reside at the Property. The children reside with their father.
- It is not known when the children vacated the premises. The Applicant is aware of this information from a neighbour who has told him. The neighbour pointed out that her children and the Respondent's children were previously friendly.
- The Police have attended on numerous occasions and have reported that there are no children within the Property.
- On one occasion the Police attended entry required to be forced to the property. The Applicant attended at the property at that time also. The Applicant did not see any signs of children's toys nor children's clothing within the property.
- The Respondent is in her late 20's or early 30's.
- When she signed the tenancy agreement she was pregnant with a third child. The Applicant was unaware of that at the time but subsequently learned that a further child had been born. That child, however, is no longer within the Property.
- The Applicant is not aware of any health concerns or issues on the part of the Respondent.

13. Having regard to the level of rent arrears, which continue to increase, and having regard to the unchallenged information in relation to repeated and continuing antisocial behaviour at the Property on the part of the Applicant, the Tribunal formed the view that it is reasonable that an Order for Eviction be granted.

14. The Tribunal granted an eviction order on grounds 12 (rent arrears) and ground 14 (antisocial behaviour) of Schedule 3 of the 2016 Act. The Tribunal considered that it did not have sufficient information to enable an eviction order to be granted on the basis of ground 15 (association with a person with a relevant conviction or engaged in relevant antisocial behaviour).

## **FINDINGS IN FACT**

15. The Tribunal found the following facts to be established:-

- a) By lease dated 23<sup>rd</sup> January 2021 the Respondent rented the Property from the Applicant. The start date of the tenancy was 23<sup>rd</sup> January 2021.
- b) The rent payable is £895.00 per calendar month payable in arrears.
- c) The Respondent fell into arrears of rent. A Notice to Leave was served upon the Respondent on 1<sup>st</sup> April 2023. As at that date the arrears of rent amounted to £2,940.57.
- d) The Notice to Leave served upon the Respondent also sought an eviction order under grounds 14 and 15 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"), that being the Respondent has engaged in relevant antisocial behaviour and, separately, that the tenant has associated in the let property with a

person who has a relevant conviction or has engaged in relevant antisocial behaviour.

- e) A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.
- f) The Applicant is in arrears of rent and has been continuously since January 2021. She has, therefore, been in arrears for three or more consecutive months.
- g) Police have required to attend at the Property on numerous occasions as a result of antisocial behaviour on the part of the Respondent. Police have attended as a result of reports made by neighbours of the Respondent.
- h) The Respondent has engaged in antisocial behaviour in the Property which has affected other persons. The antisocial behaviour is relevant antisocial behaviour.
- i) The application to the Tribunal was made within 12 months of the behaviour occurring.
- j) It is reasonable that an order for eviction be granted.

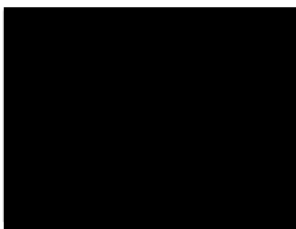
## **DECISION**

The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under grounds 12 and 14 of Schedule 3 of said Act.

Order not to be executed prior to 12 noon on 20<sup>th</sup> November 2023

## **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.**



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**Legal Member/Chair**

**13 October 2023**

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**Date**