

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 19 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/23/3478

Re: Property at 12 Lesmuir Drive, Glasgow, G14 0EQ (“the Property”)

Parties:

Mrs Nirmal Sumal, 15 Wyvis Avenue, Glasgow, G61 4RD (“the Applicant”)

Ms Karen Grant, 12 Lesmuir Drive, Glasgow, G14 0EQ (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.

Background

[2] The Applicant seeks an Eviction Order under Ground 8A of Schedule 5 of the Housing (Scotland) Act 1988. The Application is accompanied by a copy of the tenancy agreement, the relevant notice to quit and Form AT6 together with a rent statement and evidence of compliance with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 and Section 11 of the Homelessness (Etc) (Scotland) Act 2003. The Respondent had also submitted written representations to the Tribunal setting out her position.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 21 February 2024. The Applicant was represented by Ms McCoy of Regent Property. The Respondent was personally present. Neither party had any preliminary matters to raise.

[4] The Tribunal discussed all aspects of the Application with both parties. Having done so, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The Parties entered into a Short Assured Tenancy within the meaning of the Housing (Scotland) Act 1988 in terms of which the Applicant let the Property to the Respondent;*
- II. *The contractual monthly rent was £675.00;*
- III. *The Respondent stopped paying rent in February 2020 and has made zero payments towards her rent since then;*
- IV. *The Respondent raised an Application to the Housing and Property Chamber seeking a Repairing Standards Enforcement Order;*
- V. *The Tribunal granted a Repairing Standards Enforcement Order on 30 August 2021. Due to the issues identified within the Property, the Tribunal Made a Rent Relief Order at the rate of 30% in March 2022 meaning that from that point, the sum of £472.50 had been judicially determined to be due as rent until further notice;*
- VI. *The Respondent did not assist with the repair works being carried out and a Tribunal had to grant the Applicant a Right of Entry order in order to access the Property;*
- VII. *Repairs were undertaken and the Repairing Standards Enforcement Order was discharged on 8 June 2023;*
- VIII. *Notwithstanding the terms of the Rent Relief Order made, the Respondent continues not to pay any rent;*
- IX. *The Respondent has advised that she does not intend to pay any rent because she has received an "Eviction Order";*

- X. *When this Application was lodged the sum of £27,775.00 was lawfully due as rent by the Respondent to the Applicant;*
- XI. *The Applicant competently served a notice to Quit and Form AT6 but the Respondent remains in occupation of the Property;*
- XII. *The Applicant has complied with The Rent Arrears Pre Action Requirements (Coronavirus) (Scotland) Regulations 2020 and Section 11 of the Homelessness (Etc) (Scotland) Act 2003.*
- XIII. *The Respondent has been advised by the Applicant to access housing benefit or other sources of financial support;*
- XIV. *The Respondent has no pending Applications for any source of financial support;*
- XV. *The Respondent lives in the Property with two adult children and two twin 14 year old boys;*
- XVI. *The Property has not been specially adapted for their purposes;*
- XVII. *The Respondent has no intention of paying any rent and appears to consider that she is entitled to live in the Property rent free. She is incorrect;*
- XVIII. *The Respondent has been in employment as a support worker during much of the period of her occupation of the Property;*
- XIX. *The Respondent is currently in receipt of Universal Credit.*
- XX. *Rent arrears are now in the sum of £30,475.00.*

Reasons for Decision

[5] Having made the above findings in fact, the Tribunal concluded that the ground relied on was established and that it was reasonable to make the order sought. The Respondent's attitude to the payment of rent and her unreasonable actions weighed the balance exclusively in favour of granting the order. The tenancy had manifestly failed and ought to be ended as soon as possible.

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.

Andrew McLaughlin

Legal Member/Chair

21 February 2024

Date