



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

Chamber Ref: FTS/HPC/EV/23/3898

Re: Property at 7 Cairn Court, Motherwell, ML1 1TD (“the Property”)

Parties:

Miss Suk Yee Li, 19 Willow Avenue, New Stevenson, Motherwell, ML1 4BD (“the Applicant”)

Ms Laura Casement, 7 Cairn Court, Motherwell, ML1 1TD (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted against the respondent

Introduction

The application seeks an eviction order under Rules 109 Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.

Intimation of the application and the initial Case Management Discussion (CMD) was effected upon the respondent by Sheriff Officers on 22 March 2024.

The CMD took place by teleconference on 1 May 2024 at 2.00 pm. The applicant was represented by Mr Thomas Gallagher of Ness Gallagher Solicitors. The respondent failed to participate in the hearing. There was no known reason for her failure to participate.

Findings and Reasons

The property is 7 Cairn Court, Motherwell ML1 1TD. The applicant is Miss Suk Yee Li who is the heritable proprietor and registered landlord. The respondent is Ms Laura Casement.

The parties entered into a private residential tenancy which commenced on 22 June 2020. The agreed rent in terms of the written lease was £550 per month.

The eviction is based upon arrears of rent and the ground relied upon is ground 12A, contained within Part 1, Schedule 3 to the 2016 Act, as amended by the Cost of Living (Tenant Protection) (Scotland) Act 2022. This constitutes an eviction ground where there are 'substantial rent arrears'. This ground was an exception to the additional protections afforded to tenants under the 2022 Act. However, those protections have come to an end and the standard enforcement period had reverted to one of 30 days in any event.

The applicants served a notice to leave upon the respondent by Royal Mail Recorded Delivery, which is evidenced to have been received by the respondent on 14 September 2023. In terms of the said notice to leave the respondent was advised that proceedings before the tribunal would not be raised before 16 October 2023. Sufficient notice was therefore given and the notice to leave is valid.

The respondent has paid no rent since late 2022. An up to date rent statement has been produced which evidences that the sum of £10,187 is now outstanding. More than 6 months' rent was outstanding at the time that the notice to leave was served and at the date of the hearing. This is evidenced by a detailed rent statement which the tribunal found credible and reliable, and attached weight to.

The respondent failed to attend the hearing and has not opposed the application. Little is known about her circumstances as she has failed to engage in this process and has not communicated with the applicant or her representative. It is believed that she has one or two children and was receiving Universal Credit for a period of time.

There is evidence that the local authority has been advised of the eviction proceedings with a relevant section 11 notice having been issued by the applicants. In the event of an eviction order being granted that the local authority has a duty to make alternative accommodation available to the respondent.

The rent arrears pre-action requirements have not been fully complied with but there is clear evidence of communications between the parties regarding the outstanding rent and more recently the applicant's representative has supplied the respondent with specific guidance on her rights.

It is not reasonable for the applicant to continue to make the tenancy available for the respondent in the absence of any rent being paid. The failure of the respondent to pay rent is highly prejudicial to her. The outstanding rent equates to an 18 month period of unpaid rent.

In all the circumstances, the tribunal determined that an eviction order was reasonable.

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.

R Mill

1 May 2024

Legal Member/Chair

Date
