



**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/19/1126**

**Re: Property at 77 Hillview Drive, Blantyre, G72 9EE (“the Property”)**

**Parties:**

**Mr Shahid Razzaq, 29 Berriedale Terrace, West Craigs, Blantyre, Glasgow, G72 0GP (“the Applicant”)**

**Ms Nicole Shanks, 77 Hillview Drive, Blantyre, G72 9EE (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order is granted against the Respondent for eviction in favour of the Applicant in respect of the Property.**

Background

The parties are the landlord and tenant respectively of the property at 77 Hillview Drive Blantyre G72 9EE.

A Short Assured Tenancy was entered into between the parties which was for an initial 6 month period commencing on 21 June 2017. The rent was specified at £460 per calendar month with a deposit being required in the sum of £460.

The parties subsequently entered into a new private residential tenancy which commenced on 15 August 2018 with the rent again being £460 per calendar month.

The landlord on each lease is the Applicant. He jointly owns the property with his wife Mrs Rukhsana Razzaq. She has provided a letter authorisation confirming her consent.

There are two applications pending before the Tribunal. The first application under reference FTS/HPC/EV/19/1126 is the eviction application. An application with reference FTS/HPC/CV/19/1128 is an action for recovery of unpaid rent. The actions are conjoined.

#### Documentation submitted into evidence

Short Assured Tenancy Agreement dated 21 June 2017.

Private residential tenancy agreement dated 15 August 2018.

Notice to leave dated 21 February 2019.

Section 11 Notice to South Lanarkshire Council dated 26 April 2017.

Rent statements relative to both leases.

#### The Applicant's claims

The applicant seeks an eviction Order to recover the Property on the basis that there is at least 3 months' rent lawfully due from the tenant who is in arrears in respect of the private residential tenancy agreement. The tenancy agreement being the contract between the parties provides the basis for the applicant landlord seeking to recover the sums lawfully due and outstanding.

The application for payment purports to recover arrears of rent under both tenancy agreements. This is not competent. The application for payment processed and live is under Rule 111 which is the basis of a claim under the private residential tenancy agreement. A claim under the short assured tenancy would require to be brought separately under Rule 70. The rules make it clear that an application (singular) can be brought in respect of an assured or a private residential tenancy but not multiple tenancies (plural). The claims arise from distinct contractual arrangements between the parties. There are 2 rent separate statements. It also seems inherently unfair that the tenant was invited to enter into another tenancy when there was arrears outstanding at time under the old tenancy (to the extent of £500) and there was apparently no demand for such payment or steps taken at that time.

The sum sought in the payment action was amended in advance of the hearing accordance with Rule 14A to a total of £3,160.

### The Hearing

The landlord's representative appeared and participated. An up to date rent statement in respect of the private residential tenancy was provided which disclosed a current arrears balance of £2,660. The respondent did not appear.

### Findings of Fact

The respondent was in 3 months arrears of rent at the relevant date relating to the commencement of the proceedings for possession and as at the date of the hearing. As at the date of the hearing, the arrears amount to £2,660.

### Decision

The Tribunal grants an Order for possession of the property at 77 Hillview Drive Blantyre G72 9EE in favour of the applicant landlord. Additionally an Order for payment in the sum of £2,660 is made against the respondent.

### Reasons for Decision

The applicant is entitled to recover the leased property at 77 Hillview Drive Blantyre G72 9EE as a ground for possession has been established. More than 3 months rent is outstanding. He is additionally entitled to recover the rental sums outstanding in respect of the private residential tenancy of £2,660 being the contractual rent due and lawfully owed. The applicant is not entitled to recover the £500 arrears accrued under the former distinct short assured tenancy agreement in this Rule 111 application.

### **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.**

Richard Mill

14 June 2019

**Legal Member/Chair**

**Date**

\*Insert or Delete as required