

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)**

Chamber Ref: FTS/HPC/EV/23/0108

Re: Property at 7 Robshill Court, Newton Mearns, Glasgow, G77 6UG (“the Property”)

Parties:

Ms Joanna Rachel Shear, Ms Sharon Elaine Shear, 18 Edgehill Road, Mitcham, CR4 2HU; 47 Southwood Lane, London, N6 5ED (“the Applicant”)

Mr Martin Stephen Cassels, 7 Robshill Court, Newton Mearns, Glasgow, G77 6UG (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

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

BACKGROUND

1. By Lease dated 21st April 2018 the Respondent rented the Property from Anne Morris. The start date of the tenancy was 21st April 2018. The rent payable is £500.00 per calendar month;
2. Anne Morris subsequently passed away and the Applicants were appointed as executors of her estate and, as such, the role and responsibilities of Landlord in relation to the Lease transferred to them;
3. The Respondent fell into arrears of rent. On 12th January 2023 an application was presented to the Tribunal seeking an order for

payment of rent arrears (Case ref: CV/23/0109). As at that date, the arrears of rent amounted to £1,900.00. The application requested that interest be applied to any order for payment also;

4. Separately, the applicant sought an order for eviction. The ground of eviction relied upon was that the Applicant intended to sell the property, that being to comply with their responsibilities as executors of the estate of the late Anne Morris and to enable the estate to be disbursed and settled;
5. The Applicants had served a notice to leave upon the Respondents;
6. A notice in terms of Section 11 of the Homelessness Etc (Scotland) Act 2003 was intimated to the local authority;

THE CASE MANAGEMENT DISCUSSION

7. Both Parties participated in the case management discussion. The Applicant was represented by Miss K Donnelly of Messrs T C Young, Glasgow. The Respondent represented himself;
8. Prior to the case management discussion correspondence was forwarded to the Tribunal advising that Parties had been in discussion and had reached agreement in relation to both applications;
9. In relation to the application for a payment order, it was agreed that the arrears outstanding as at the date of the case management discussion amounted to £3,400.00. Separately, a time to pay application had been submitted to the Tribunal and it was agreed between the Parties that a time to pay direction should be granted and that the Applicant make two separate lump sum payments of £500.00 on 26th May 2023 and 2nd June 2023 and, thereafter, that payment be made at the rate of £340.00 per month. The respondent advised, however, that his bank was closed on the day of the case management discussion and would not re-open until Tuesday 30th May 2023. Miss Donnelly confirmed that she was content that the time to pay direction provided for payment of the first £500.00 on Tuesday 30th May 2023 rather than Friday 26th May 2023;
10. In relation to the matter of interest, the Applicant sought interest at the rate of 8% per annum. The Tribunal was not minded to

award interest at that rate. As at the date of the case management discussion (26th May 2023) the base lending rate of RBS was 4.5%. The Tribunal considered it appropriate to award interest at a rate of 5%. There was no objection to that by the Respondent.

11. In relation to the eviction action, parties were agreed that an eviction order should be granted, the date of enforcement to be no sooner than 12 noon on 26th November 2023;
12. Having regard to the agreement reached between the parties the Tribunal made the orders as requested and was satisfied that, in relation to the eviction action, it was reasonable to grant the order having regard to the fact it was a matter which had been agreed between the parties and the date of enforcement was 6 months hence.

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 Ground 1 of Schedule 3 to said Act

Order not to be executed prior to 12 noon on 26th 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.

Virgil Crawford

26 May 2023

Legal Member/Chair

Date