



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/CV/22/1607**

**Re: Property at 43 1/2 Curzon Street, Glasgow, G20 9HD (“the Property”)**

**Parties:**

**Scottish Garden City Housing Society Limited, 525 Ferry Road, Edinburgh, EH5 2FF (“the Applicant”)**

**Ms Roberta Robertson, 43 1/2 Curzon Street, Glasgow, G20 9HD (“the Respondent”)**

**Tribunal Members:**

**Sarah O'Neill (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent of the sum of £4396 should be granted in favour of the Applicant.**

**Background**

1. By application received on 27 May 2022, the Applicant submitted an application seeking a payment order brought in terms of rule 70 (Application for civil proceedings in relation to an assured tenancy) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). The Applicant sought an order for payment of £4396 in respect of rent arrears which were due to be paid by the Respondent to the Applicant.
2. Attached to the application form were:
  - i. Paper apart setting out the background to the application and to the tenancy between the parties

- ii. Copy lease (“the Head Lease”) between the Glasgow Corporation and the Applicant dated 11 and 17 August 1961 relating to an area of ground at Curzon Street, Glasgow
  - iii. Rent statement showing the outstanding arrears due as at 1 May 2022 to be £4396
  - iv. Copy letters dated 21 April, 21 June, 15 July and 18 October 2021 and a further undated letter from Veterans Housing Scotland to the Respondent regarding the rent arrears
3. The application was accepted on 9 June 2022. The application papers, together with notice of the case management discussion (CMD) scheduled for 18 August 2022, were served on the Respondent by sheriff officer on behalf of the tribunal on 20 July 2022. No written representations or time to pay application were received from the Respondent prior to the CMD.

### **The case management discussion (CMD)**

4. A CMD was held by remote teleconference call on 18 August 2022. The Applicant was represented by Mr Calum MacPherson, solicitor, of Brodies LLP. The Respondent was not present on the teleconference call and was not represented. The tribunal delayed the start of the discussion by 10 minutes, in case the Respondent had been detained. She did not appear, however, and no telephone calls or messages had been received from her.
5. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a CMD had been duly complied with. It therefore proceeded with the CMD in the absence of the Respondent.
6. Mr MacPherson explained to the tribunal that, as set out in the paper apart attached to the application form, the Applicant is the tenant under a ground lease (“the Head Lease”) between the Glasgow Corporation and the Applicant dated 11 and 17 August 1961 relating to an area of ground at Curzon Street, Glasgow. The landlord under the Head Lease is now City Property Investments (LLP) following the disposal to them of the property by the City Council in 2010. The property forms part of the area of ground let under the Head Lease.
7. He stated that the Respondent is the tenant and the Applicant is the landlord in relation to what is believed to be an assured tenancy of the property. The assured tenancy was between the Applicant and the Respondent’s late husband, Alexander McAlear. The Applicant does not have a copy of the original tenancy agreement, which is believed to have been lost. The tenancy is believed to have been entered into in or around 2014 with a rent of £354 per month payable in advance on the first of each month.

8. Mr MacPherson said that the Respondent's husband died on 2 December 2019. He submitted that, where a sole assured tenant dies on or after 1 December 2017, the assured tenancy to which their spouse or civil partner succeeds becomes a private residential tenancy (PRT), in terms of section 31A of the Housing (Scotland) Act 1988. However, the Applicant is a charity providing accommodation to veterans. The tenancy cannot there be a PRT, in terms of paragraph 22 of Schedule 1 to the Private Housing (Tenancies) (Scotland) Act 2016. Accordingly, the Respondent had become an assured tenant in terms of section 31 of the 1988 Act.
9. The legal member noted that there was reference in the letter from Veterans Housing Scotland to the Respondent dated 21 June 2021 to a payment plan having been set up with her. Mr MacPherson said that the Respondent remained in arrears of £4396. There had been no contact from the Respondent since the application was made and no payments had been made towards the arrears. The Applicant therefore sought an order for payment against the Respondent for the outstanding balance of £4396.

### **Findings in fact**

10. The tribunal made the following findings in fact:
  - The Applicant is the registered landlord of the property.
  - An assured tenancy between the Applicant and the Respondent's late husband began in around 2014.
  - Following the death of the Respondent's late husband on 2 December 2019, the Respondent succeeded to the tenancy.
  - There is an assured tenancy between the parties, as from 1 July 2019, a tenancy where the landlord is a charity providing accommodation to veterans cannot be a private residential tenancy.
  - The rent payable under the tenancy agreement was £354 per month, payable in advance on the 1st day of each month.
  - As at the date of the CMD, the Respondent owed the Applicant £4396 in rent arrears.
  - The Applicant (under its operating name of Veterans Housing Scotland) had sent a number of letters to the Respondent regarding the outstanding arrears prior to making the application.

### **Reasons for decision**

11. In the absence of any written representations from the Respondent disputing the facts, or any appearance by her at the CMD, the tribunal considered that it was able to make sufficient findings to determine the case, and that to make a decision without a hearing would not be contrary to the interests of the parties.

It therefore proceeded to make a decision at the CMD without a hearing in terms of rules 17(4) and 18 (1) (a) of the 2017 rules.

12. On the basis of all the evidence before it, the tribunal was satisfied that there was an assured tenancy between the parties. It was also satisfied that the Respondent owed £4396 in rent to the Applicant as at the date of the CMD and that the Applicant had given the Respondent fair notice of the sum sought.
13. For the reasons stated above, the tribunal decided to make an order for payment by the Respondent to the Applicant for the sum of £4396.

### **Decision**

The tribunal grants an order for payment by the Respondent to the Applicant for the sum of £4396.

### **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.**

**Sarah O'Neill**

**18<sup>th</sup> August 2022**

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**Legal Member/Chair**

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**Date**