

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 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“The Act”)

Chamber Ref: FTS/HPC/EV/22/3916

Re: Property at 12 Cospatrick Gardens, Dunbar, EH42 1FR (“the Property”)

Parties:

Places for People Scotland Limited, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Ms Georgia Hogan, Mr Terence Thomson, 12 Cospatrick Gardens, Dunbar, EH42 1FR (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and John Blackwood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.

Background

The Applicant seeks an Eviction Order based on Ground 12 of Schedule 3 of the Act. The Application is accompanied by a copy of the tenancy agreement, the notice to leave and proof of service, evidence of compliance with s11 of the Homelessness (Etc) (Scotland) Act 2003 and evidence of compliance with the Rent Arrears Pre- Action Requirements (Coronavirus) (Scotland) (Regulations) 2020. Rent statements are also produced.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 10 February 2023. The CMD called alongside a related Application in respect of a Payment Order between the parties. The Applicant was represented by Mr Caldwell, solicitor of Patten & Prentice. The First Respondent, Georgia Hogan was present. There was no appearance by or on behalf of the Second Respondent, Mr Terrence Thomson. On the basis that the Application and information about to join the conference call had been competently served on Mr Terrence Thomson, the Tribunal decided to proceed in his absence.

The Tribunal established whether either party had any preliminary matters. Mr Caldwell confirmed that the current rental arrears were in the sum of £9,494.04. Mr Caldwell confirmed that the Applicant still sought an Eviction Order.

Ms Hogan began by indicating that she wished time to take legal advice. She indicated very recent efforts to obtain legal advice. Ms Hogan had previously made an application to have the Tribunal “*cancelled*” for this purpose. This had been treated as an application for a postponement and had been refused.

Ms Hogan was opposed to an Eviction Order being granted. The Tribunal conducted an extensive exercise to establish Ms Hogan’s domestic and financial situation to ensure that the Tribunal had a full grasp of the relevant issues. Having heard from Mr Caldwell and from Ms Hogan and having considered the Application and enclosures, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondents by virtue of a Private Residential Tenancy Agreement that commenced on 14 February 2020;*
- II. *The contractual monthly rent was initially £795.00 and is now £843.00;*
- III. *The Respondents fell into rent arrears at the outset of the tenancy and have been in arrears continuously since then;*
- IV. *As at today’s date the sum of £9,494.04 is lawfully due as rent arrears by the Respondents to the Applicant but remains unpaid;*
- V. *On 2 September 2022, the Applicant competently served a Notice to Leave on the Respondents by email in terms of Ground 12 of Schedule 3 of the Act. That Notice to Leave stated that no Application to the Tribunal for an Eviction Order would be made before 3 October 2022.*

- VI. *Ground 12 of Schedule 3 of the Act was established as at that date of service of the Notice to Leave in that the Respondents owed at least one month's worth of rent arrears and had been so in arrears for a period of at least three months. The ground also remains established as at today's date;*
- VII. *The Applicant has complied with s11 of the Homelessness (Etc) (Scotland) Act 2003 and the Rent Arrears Pre- Action Requirements (Coronavirus) (Scotland) (Regulations) 2020;*
- VIII. *The Respondents have separated and Georgia Hogan resides in the Property with her two children, aged 4 and 8. One of the children is being assessed for autism. Ms Hogan is currently working part time and shortly expects to commence full time employment as a software developer on a salary of £32,500.00 per year;*
- IX. *Ms Hogan does not want to lose the Property as she has lived there with her two children since 2020 and she has friends and family close by. The children's friends are also in the area.*
- X. *Ms Hogan proposes that she pays £1,000.00 per month to the Applicant. This would cover the rent of £843.00 and a contribution towards the rent arrears of £157.00 each month. Ms Hogan is hopeful that she soon might be able to pay more when she starts her new job. Ms Hogan is hopeful that she might also benefit from a potential inheritance in the future;*
- XI. *Ms Hogan accepts that she delayed taking any action to address her financial difficulties but believes that she was hindered by her toxic relationship with Mr Terrence Thomson. Ms Hogan feels better able to make sound financial decisions now. Ms Hogan accepts that the rent arrears set out are accurate.*
- XII. *Given the size and the duration of the rent arrears; the length of time it would take for total repayment, and even allowing for the acknowledged disturbance that the making of any order would have on Ms Hogan and her family: it is reasonable that an Eviction Order is granted.*

Reasons for Decision

The Tribunal considers that as no defence has been put forward to the Application other than to dispute the reasonableness of granting the order, that there is no benefit in delaying any final decision for the purpose of allowing Ms Hogan to take further advice. The Tribunal has a full understanding of the facts and any delay would simply not be in the interests of justice.

Having made the above findings in fact, the Tribunal unanimously granted the Application and made an Eviction Order.

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.



Legal Member/Chair

10 February 2023

Date