



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 19 of the Housing (Scotland) Act 1988.

Chamber Ref: FTS/HPC/EV/23/2544

Re: Property at 36 West Crescent, Muirhead, Troon, KA10 7BJ (“the Property”)

Parties:

Carthon Lets Limited, 27 Fullarton Crescent, Troon, Ayrshire, KA10 6LL (“the Applicant”)

Ms Michelle Darragh, 36 West Crescent, Muirhead, Troon, KA10 7BJ (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member) and Helen Barclay (Ordinary Member)

Decision (In absence of the Respondent).

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the eviction of the Respondent from the property be made on ground 8A (six months’ rent arrears) and on the basis that it is reasonable in all of the circumstances to grant the eviction.

2. This was a case management discussion (‘CMD’) in connection with an application in terms of rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ and s 19 of the Housing (Scotland) Act 1988, ‘the Act’, for an eviction order on ground 8A (rent arrears in excess of 6 months). There was a second application before the Tribunal in terms of rule 70 regarding rent arrears.

3. The Applicant was represented by Ms Kirsty Donnelly solicitor. The Respondent did not attend and was not represented. The Tribunal had sight of the execution of service of the application by Sheriff Officers dated 2 October 2023. The tribunal was satisfied that the Respondent had received notice in terms of rule 24 and proceeded with the CMD in terms of rule 29.

4. The Tribunal had before it the following copy documents:

- (1) Application dated 28 July 2023.
- (2) Tenancy agreement dated 17 April 2014 for the initial period of 17 April 2014 until 16 October 2014 and month to month thereafter.
- (3) Notice to quit dated 9 May 2023.
- (4) AT6 dated 9 May 2023.
- (5) S11 notice and proof of service.
- (6) Land certificate.
- (7) Landlord registration details.
- (8) Rent statement.
- (9) Sheriff Officer's execution of service of the AT6 and notice to quit dated 9 May 2023.
- (10) Email from Applicant's solicitor with rent statement and increase sum sought dated 3 October 2023.
- (11) Pre-action letter dated 8 April 2023.

6. Discussion

Ms Donnelly was seeking an eviction order. The rent arrears have increased to £5650 which is 12 months of arrears. The respondent is refusing to engage with the Applicant. It took three attempts to gain entry to carry out the gas safety inspection. The Respondent has consistently been in arrears of rent since 2016 and she has paid nothing since February 2023. The Respondent is in employment as a care worker and she lives in the property with her son who is around 13 years old. As far as the Applicant is aware there is no entitlement to housing benefit.

7. Findings in fact

- The Applicant is the owner and registered landlord of the property.
- The parties entered into a short assured tenancy for let of the property on 17 April 2014 for the initial period of 6 months to 16 October 2024 and month to month thereafter.
- The agreed monthly rent was £460.
- The Respondent has had arrears of rent since 2016.
- The Applicant served a valid notice to quit and AT6 on 9 May 2023.
- The tenancy has reached its end and tacit relocation is not operating.
- The arrears at the date of service of the AT6 were £3010, in excess of six months' rent.
- The arrears at the date of the application were £4330.
- The current rent arrears are £5210.
- The rent arrears are not due to a delay or failure in payment of a relevant benefit.

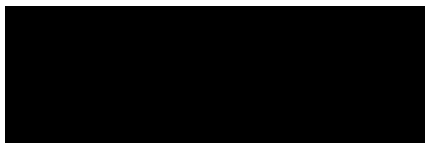
- The Respondent has paid no rent since February 2023 and the rent arrears continue to accrue.
- The Respondent has delayed in allowing access to the property for the gas safety checks to be carried out.

8. Reasons

This was an undefended application for eviction on the basis of six months' rent arrears. There are now twelve months of arrears and the rent continues to accrue. The Tribunal was satisfied that the arrears are not due to a failure or delay in payment of a relevant benefit. The Applicant has complied with the pre-action requirements. The Tribunal was satisfied that it had sufficient information before it to make a decision and the procedure had been fair. The Tribunal was satisfied that it is reasonable in all of the circumstances for the eviction to be granted.

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.



Lesley Anne Ward

Legal Member/Chair

31 October 2023

Date