

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/CV/23/4183

Re: Property at Flat 1, 20 Ferry Gait Crescent, Edinburgh, EH4 4GR (“the Property”)

Parties:

Ms Jurgita Friis-Jorgensen, Estrada Municipal U 537, Coixa Postal, 921K 8600-210, Portugal (“the Applicant”)

Mr Marco Chacon Morales, Flat 1, 20 Ferry Gait Crescent, Edinburgh, EH4 4GR (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Melanie Booth (Ordinary Member)

Decision

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

BACKGROUND

1. By lease dated 6th June 2022 the Applicant let the Property to the Respondent.
2. The start date of the tenancy was 8th June 2022.
3. The monthly rental payment is £795.00 per month, payable in advance.
4. The Respondent fell into arrears of rent. Separately, the Applicant determined that she wished to sell the Property.
5. The Applicant served a notice to leave upon the Respondent intimating she required recovery of the Property as she intended to sell it.

6. The Applicant intimated a notice in terms of the s11 of the Homelessness Etc. (Scotland) Act 2003 upon the local authority.
7. The Applicant presented two separate applications to the Tribunal, one seeking an order for eviction (EV/23/3931) and one seeking an order for payment of arrears of rent (CV/23/4183).
8. As at the date of the applications – 06 November 2023 – rent arrears amounted to £1,880.00. As at the date of the case management discussions – 26th April 2024 – rent arrears amounted to £3,995.90.

THE CASE MANAGEMENT DISCUSSION

9. Case Management Discussions in relation to both cases were held by teleconference at 2pm on 26th April 2024. The Applicant was represented by Mrs C Bunce of Northwood Letting Agents, Edinburgh. Mr S Millar of Northwood Letting Agents attended as an observer. The Respondent participated personally.

Eviction

10. In relation to the eviction application, Mrs Bunce moved the Tribunal to grant an order for eviction. It is still the case that the Applicant wishes to sell the Property. An offer has been received. A copy of this had previously been forwarded to the Tribunal.
11. The Respondent advised the Tribunal that he accepted the basis for the application to evict him. He did not oppose the application. He indicated he simply wished to be allowed some time to attempt to secure alternative accommodation.
12. The Respondent confirmed that he lives at the Property with his two children aged 13 years and 18 years. He had no significant health issues and no other factors relevant to the issue of reasonableness. The Respondent apologised to the Applicant for the delay which had been caused by him requiring to remain in the Property as he had not managed to find anywhere else to stay. He indicated that he would have moved out previously but he required to prioritise the needs of his children. His position, as stated, is that he did not oppose the order for eviction.

Rent arrears

13. In relation to rent arrears, Mrs Bunce moved the Tribunal to amend the amount claimed from £1,880.00 to £4,295.00. An updated rent statement had been provided to the Tribunal. The figure of £4,295.00 included a missed payment on 8th April 2024. That payment, however, was for the period until 7th May 2024. Given that the Case Management Discussion was being held on 26th April 2024, as at that date the actual arrears of rent amounted to £3,995.90. Mrs Bunce, after considering the matter, moved the Tribunal to amend the amount claimed to £3,995.00.

14. Again, the Respondent did not object to that. He accepted that there were rent arrears. He indicated it is his intention to make payment but he would require to make payment by instalments. He requested time to pay at the rate of £50.00 per week.
15. Mrs Bunce intimated that she would wish to obtain instructions from her client in relation to the offer of time to pay. The Tribunal allowed an adjournment for that purpose. In any event, the Tribunal intended having an adjournment to consider its decision in relation to each of the cases.
16. When the Tribunal reconvened, Mrs Bunce confirmed that, while she had not been able to speak to her client directly, she had noted correspondence within her own file in which the Applicant had previously agreed to payment at the rate of £50 per week. She consented to a time to pay order in that amount.
17. In the circumstances, given the position which was agreed between the parties, the Tribunal granted an order for eviction and, separately, granted an order for payment of the sum of £3,995.90. The Tribunal granted a time to pay direction, payment to be made at the rate of £50.00 per week.

DECISION

The Tribunal granted an order against the Respondent for payment of the sum of THREE THOUSAND NINE HUNDRED AND NINETY FIVE POUNDS AND NINETY PENCE (£3,995.90) STERLING to the Applicant

The Tribunal made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, in the following terms:

The respondent is required to pay the sum of FIFTEY POUNDS (£50.00) STERLING per week until the full amount has been paid. The first payment must be made no later than one week after intimation of this 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.

V. Crawford

26 April 2024

Legal Member/Chair

Date