

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/23/4693

Re: Property at 12, Flat 20, Pillans Place, Edinburgh, EH6 7GD (“the Property”)

Parties:

C-urb 6 Limited, Formerly Link Housing Association Ltd as Link2Let, Waiting House, Callendar Road, Callendar Business Park, Falkirk, FK1 1XR (“the Applicant”)

Mr Mark Low, 12, Flat 20, Pillans Place, Edinburgh, EH6 7GD (“the Respondent”)

Tribunal Members:

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

Decision (in absence of the Respondent)

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

BACKGROUND

1. The Applicant previously let the Property to the Respondent. The start date of the tenancy was 19th November 2021.
2. The rent payable is £675.36 per calendar month, payable in advance.
3. The Respondent fell into arrears of rent. As a result, a Notice to Leave dated 20th November 2023 was served upon the Respondent. As at the date of the notice to leave the arrears amounted to £12,083.83.
4. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.

5. The Applicant thereafter presented two separate applications to the Tribunal, one seeking an order for eviction (EV/23/4692) the other seeking an order for payment of rent arrears, also including a sum due for a chargeable repair (CV/23/4693).

THE CASE MANAGEMENT DISCUSSION

6. A case management discussion was assigned to be held by teleconference at 10am on 31st May 2024. The Applicant was represented by Miss C Dempster of Messrs Harper McLeod LLP, Solicitors. Mr A Moodey and Miss L Waterson, employees of the applicant, participated also. The Respondent did not participate in the Case Management Discussion. The Tribunal, however, was in receipt of a certificate of intimation by Sheriff Officers confirming that the proceedings had been intimated upon the Respondent. In the circumstances, the Tribunal was satisfied in terms of Rule 24 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the FTT Regs”) that the respondent had received intimation of the date and time of the Case Management Discussion and considered that it was appropriate to proceed with the Case Management Discussion in the absence of the Respondent in accordance with Rule 29 of the FTT regs

Payment Order

7. In relation to the application for a payment order, an updated rent statement had been provided to the Tribunal in advance. The arrears of rent had increased to £16,107.55. In addition, a chargeable repair had been done, the cost of that being £150.00. The total sum due, therefore, is £16,257.55. In the absence of opposition by the Respondent, the Tribunal allowed the sum claimed to be amended to £16,257.55 and granted a payment order in that amount.

Eviction Order

8. In relation to the eviction application, Miss Dempster moved the Tribunal to grant an eviction order. It was pointed out that the arrears of rent were now £16,107.55, with a further £150.00 due for a chargeable repair. The updated rent statement indicated that the last payment towards rent was on 5th June 2023. The arrears had continually increased since then and now amounted to £16,107.55. The arrears, clearly, are substantial and have not been disputed by the Respondent.
9. The Tribunal made enquiry in relation to the personal circumstances of the Respondent. The Tribunal was advised the Respondent is either 32 or 33 years of age. He lives alone although he has a daughter who resides with him on occasion. He, however, is not the primary carer for his daughter. He is in employment. He works as a joiner within the construction industry. Representatives of the

Applicant met with him on 14th May 2024 and he was working at that time. The Respondent advised the Applicant that he has been suffering from mental health issues but indicated those are now being dealt with and, from the information available, they clearly do not stop him from engaging in employment.

10. The Applicant is not aware if the Respondent has presented himself to the local authority or is obtaining any assistance from the local authority to be rehoused. The Tribunal was advised that the Respondent has failed to engage with the Applicant, with one exception. The Applicant has attempted to contact him by telephone, by email, by arranged visits and by unarranged doorstep visits. All such attempts to engage with the Respondent have failed. The only time they have managed to engage with him is when a repair was required and he needed to speak to them in connection with that.
11. The rent statement shows various payments of £250.00 being made by the Respondent. The Tribunal was advised that he had previously entered into an agreement to pay £250.00 per week, by direct debit, towards rent and arrears. Despite that arrangement being entered into, on many occasions the attempt to obtain funds by way of direct debit was unsuccessful. As indicated, the last successful payment was on 5th June 2023.
12. In the circumstances, having regard to the high level of rent arrears and the absence of opposition, the Tribunal granted an order for eviction.

FINDINGS IN FACT

13. The Tribunal found the following facts to be established.
 - a) The Applicant let the Property to the Respondent. The start date of the tenancy was 19th November 2021.
 - b) The rent payable is £675.36 per calendar month, payable in advance.
 - c) The Respondent fell into arrears of rent. As a result, a Notice to Leave dated 20th November 2023 was served upon the Respondent. As at the date of the notice to leave the arrears amounted to £12,083.83.
 - d) A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
 - e) As at the date of the case management discussion the amount due to the the Applicant by the Respondent is £16, 257.55. That sum is due, resting and owing by the Respondent to the Applicant.
 - f) Arrears of rent amount to £16,107.55. The arrears of rent are substantial.

DECISION

The Tribunal granted an order against the Respondent for payment of the sum of SIXTEEN THOUSAND TWO HUNDRED AND FIFTY SEVEN POUNDS AND FIFTY FIVE PENCE (£16,257.55) STERLING to the Applicant

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

31 May 2024

Legal Member/Chair

Date