



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/24/2868

Re: Property at Flat 7, 4 Carter Mews, Edinburgh, EH17 8GS (“the Property”)

Parties:

Castle Rock Edinvar Housing Association Ltd in association with Places For People Scotland, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Ms Stephanie Clorley, Flat 7, 4 Carter Mews, Edinburgh, EH17 8GS (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

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

BACKGROUND

1. By Lease dated 9th February 2022, the Applicant let the Property to the Respondent.
2. The start date of the tenancy was 9th February 2022.
3. Rent was payable, initially, at the rate of £690.00 per calendar month. During the currency of the lease the rent was increased to £710.70 per calendar month.
4. As at 1st June 2024, arrears amounted to £10,996.13.
5. A notice to leave was served upon the Respondent, intimating that the Applicant sought recovery of possession in terms of ground 12 of schedule 3 to the Private Housing (Tenancies) (Scotland) act 2016 (“the 2016 act”).

6. A notice in terms of s11 Homeless Etc. (Scotland) act 2003 was intimated to the local authority.
7. On 24th June 2024, the Applicant presented two separate applications to the Tribunal, one seeking an order for eviction (EV/24/2868) and one seeking an order for payment of rent arrears (CV/24/2869).

THE CASE MANAGEMENT DISCUSSION

8. The Applicant was represented at the case management discussion by Mr K Caldwell of Messrs Patten & Prentice LLP. The Respondent did not participate. 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.

Rent Arrears

9. In relation to arrears of rent, Mr Caldwell had, on 5th December 2024, forwarded an updated rent statement to the Tribunal. The updated rent statement showed that, as of 1st December 2024, the arrears of rent had increased to £15,581.53.
10. Mr Caldwell did not seek to amend the amount claimed. He acknowledged that this updated rent statement was only forwarded to the Tribunal on 5th December 2024 and the Respondent, therefore, has not received sufficient notice of the updated figure. Mr Caldwell suggested, however, that the updated rent statement was relevant in relation to consideration of the reasonableness of the application for eviction.
11. In relation to the payment action, however, there being no appearance by the Respondent and no opposition presented to the application, the Tribunal granted a payment order in the sum of £10,996.13.
12. The application for a payment order requested that interest be applied at the rate of four per centum per annum. The lease did not contain any provision for interest to be payable on late payments. The Tribunal, however, has a discretion in relation to this. Given the application to the Tribunal, which has been served upon the Respondent, intimated that interest was being sought at a rate of four per centum per annum, and given there has been no appearance by the Respondent and no opposition to the same, the Tribunal considered it appropriate that interest be ordered at the rate requested.

Eviction

13. In relation to the application for eviction, this was moved in terms of ground 12 of schedule 3 of the 2016 Act. There have been arrears of rent consistently since November 2022. The arrears have consistently increased. As at the time of the application to the Tribunal, rent arrears amounted to £10,996.13. Arrears now amount to £15,581.53. The arrears are significant and longstanding. Pre-action requirements had been complied with.
14. In relation to the personal circumstances of the Respondent, Mr Caldwell advised the Tribunal that she is believed to be 30 years of age, a single lady with 2 children residing with her. It is understood she has a son aged 8 years and a daughter aged 7 years.
15. At the time the lease was entered into the Respondent was working part time and, separately, in receipt of benefits. In the course of 2023 she advised she was now in receipt of universal credit. It is believed by the Applicant that she will be receiving the housing element of that by direct payment to her. With certain limited exceptions, however, no rental payments have been paid to the Applicant.
16. The Applicants are not aware of any medical or health issues affecting either the Respondent nor her children.
17. In relation to engagement by the Respondent with the Applicant, this, again, has been limited. A visit to the Property was undertaken during May 2024. At this time an infestation of cockroaches was noted. Steps were taken to address this shortly thereafter, the necessary work by pest control officers being carried out in June 2024. It was noted at the time there were no similar issues with adjoining properties, giving rise to concerns that the infestation at the Property was because of the condition within the Property itself. Aside from the contact in May and June, there was a telephone call to the Respondent in September and various emails exchanged in September and October but, unfortunately, to no avail in relation to addressing the level of arrears.
18. The Respondent has not entered into any arrangement for repayment of any of the arrears. There has been a limited number of payments which appear to be random in nature, for example, on 1st March 2024 a payment of £80.00 was received, on 26th April 2024, a payment of £710.00 was received and on 30th May 2024, a payment of £150.00 was received.
19. Aside from those payments, there have been no other payments made during 2024.
20. Having regard to the significant level of rent arrears, equating to almost 2 years' worth of rental payments, and the absence of any reason being provided by the Respondent as to why the arrears have arisen nor any proposals for reducing them, together with the available information about the personal circumstances of the Respondent, the Tribunal considered it appropriate to grant an order for eviction.

FINDINGS IN FACT

21. The Tribunal found the following facts to be established:-
- a. By lease dated 9th February 2022, the Applicant let the Property to the Respondent.
 - b. The initial rental payment due was £690.00 per calendar month. That was subsequently increased to £710.70 per calendar month.
 - c. Arrears of rent began accruing on 1st December 2022. Since then the arrears have consistently increased.
 - d. As at the date of application to the Tribunal the arrears of rent amounted to £10,996.53.
 - e. As at the date of the case management discussion, arrears of rent amounted to £15,581.53.
 - f. A notice to leave intimating that proceedings for eviction may be raised under ground 12 of schedule 3 of the 2016 Act was served upon the Respondent.
 - g. A notice in terms of s11 of the 2003 Act was intimated to the local authority.
 - h. The Applicant has attempted to engage with the Respondent in relation to the arrears without success.
 - i. The arrears of rent are substantial and longstanding. As at the date of the case management discussion the arrears of rent equate to almost 2 years' worth of rental payments.
 - j. A sum of not less than £10,996.13 is due, resting and owing by the Respondent to the Applicant.

REASONS FOR DECISION

22. In relation to the payment order requested, this was for the amount of £10,996.13, that being the amount of rent arrears due as at the date of the proceedings being raised before the Tribunal. The arrears have increased since then. The amount sought by way of a payment order is significantly less than the amount now presently due. In the circumstances, there is no reason not to grant the payment order requested.
23. In relation to the eviction, as stated above, the arrears are substantial and longstanding. No explanation has been advanced by the Respondent as to why the arrears arose. No proposals have been advanced in relation to the possibly reduction of the arrears. Having regard to the level of arrears, in the absence of compelling the reasons being advanced by, or on behalf of the Respondent, it is reasonable to grant an order for eviction. No information was placed before the Tribunal to suggest otherwise.

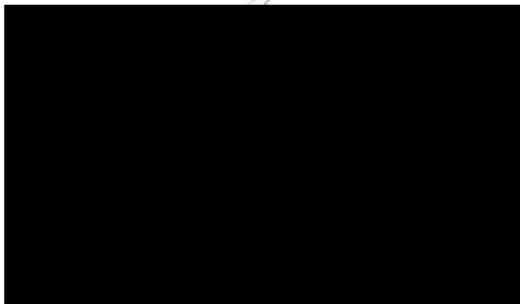
DECISION

The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 of schedule 3 of said Act.

Order not to be executed prior to 12 noon on 15th January 2025

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.



9th December 2024

Date