

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/EV/24/3314

Re: Property at 197D Corbiehall, Bo'ness, EH51 0AX (“the Property”)

Parties:

C-urb 6 Ltd, Link House, 2c New Mart Road, Edinburgh, EH14 1RL (“the Applicant”)

Ms Sophie Amono, 197D Corbiehall, Bo'ness, EH51 0AX (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Mike Scott (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 March 2020, the Applicant let the Property to the Respondent.
2. The rent payable was initially £507.48 per calendar month. During the tenancy, the rent was increased on various occasions, latterly being an amount of £579.40 per month.
3. The Respondent fell into arrears of rent. Separately, the Applicant became aware that Respondent had vacated the Property.
4. A notice to leave dated 1st May 2024 was served upon the Respondent. The notice to leave intimated that the Applicant was seeking to recover possession of the Property under ground 10 (tenant not occupying the Property) and

ground 12 (tenant in rent arrears for 3 or more consecutive months) of schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2006.

5. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
6. The Applicant presented two applications to the Tribunal, one seeking an order for eviction (EV24/3314) and one seeking an order or payment of arrears of rent (CV/24/3319).
7. As at the date of service of the notice to leave arrears of rent amounted to £4,530.87. As at the date of the Application to the Tribunal arrears amounted to £5,736.73. As at the date of the Case Management Discussion, arrears of rent amounted to £10,790.45.
8. Copy of correspondence dated 12th February 2024 from Universal Credit to the Respondent confirmed that payment of benefits was being made to the Respondent in relation to rental payments due by her.

THE CASE MANAGEMENT DISCUSSION

9. The Applicant was represented at the case management discussion by Miss S Dempster of Harper Macleod LLP. Ms G Hallis, an employee of the Applicant attended also as an observer. 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;

Eviction

10. The tribunal was advised that the Applicant has vacated the Property. The information available to the Applicant is that the Respondent is now residing at an address in Barking in England. She has not occupied the Property for a significant period of time.
11. While the application for an eviction order was made under two separate grounds, for the avoidance of doubt in relation to rent arrears, copy correspondence from Universal Credit was provided showing the Respondent was in receipt of benefits, including benefits awarded to enable rental payments to be made.
12. The Applicants have corresponded with the Respondent in relation to rent arrears and compliance with the pre action protocol provided for within the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

Rent Arrears

13. No rental payments have been made since 14th September 2023. As at the date of service of the notice to leave arrears amounted to £4,530.87. As at the date of the Application to the Tribunal. Arrears amounted to £5,736.73. As at the date of the case management discussion, arrears of rent amounted to £10,790.45.
14. In advance of the Case Management Discussion an updated rent statement was provided to the Tribunal. Miss Dempster moved the Tribunal to amend the amount claimed to £10,790.45. In the absence of any appearance or opposition by the Respondent, the Tribunal granted that motion.
15. The application seeking an order for payment also requested that interest at the rate of 8% per annum be applied to any order for payment. The lease, however, does not make any provision for interest to be payable upon late payment of rent. The Tribunal, however, has a discretion to order payment of interest. Having regard to the current prevailing base bank lending rates of interest, the Tribunal determined that it was appropriate to order interest to be payable at a rate of 5% per annum.

FINDINGS IN FACT

16. The Tribunal found the following facts to be established: -
 - a) By Lease dated 9th March 2020, the Applicant let the Property to the Respondent.
 - b) Rent was initially payable at £507.48 per calendar month. During the tenancy, the rent was increased on various occasions, latterly being an amount of £579.40 per month.
 - c) The Respondent fell into arrears of rent.
 - d) The Respondent vacated the Property and no longer lives there.
 - e) A notice to leave dated 1st May 2024 was served upon the Respondent. The notice to leave intimated that the Applicant was seeking to recover possession of the Property under ground 10 (tenant not occupying the Property) and ground 12 (tenant in rent arrears for 3 or more consecutive months) of schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2006.
 - f) A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
 - g) The respondent is in arrears of rent. She has been in arrears of rent since August 2023. No rental payments have been made since 14th September 2023. The arrears of rent are significant.
 - h) As at the date of the case management discussion the sum of not less than £10,790.45 is due resting and owing by the Respondent to the Applicant.
 - i) The areas of rent are not due to any delay or failure in the payment of a relevant benefit.

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 grounds 10 and 12 of schedule 3 to said Act.

Date of Order: Order not to be executed prior to 12 noon on 5 May 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.

Virgil Crawford

Virgil Crawford

28 March 2025

Legal Member/Chair

Date