

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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

**Chamber Ref: FTS/HPC/EV/24/3951**

**Re: Property at 4/3 Carrick Knowe Avenue, Edinburgh, EH12 7BX (“the Property”)**

**Parties:**

**Mrs Susan Mitchell, 13 Craigs Crescent, Edinburgh, EH12 8HT (“the Applicant”)**

**Miss Peace Echeonwu, 4/3 Carrick Knowe Avenue, Edinburgh, EH12 7BX (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and Eileen Shand (Ordinary Member)**

**Decision (in absence of the Respondent)**

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

**BACKGROUND**

1. The Applicant let the property to the Respondent. An unsigned copy of the tenancy agreement was provided to the Tribunal. The start date of the tenancy was 28 April 2020.
2. The tenancy agreement – a standard private residential agreement – contained, at paragraph 11, a prohibition on the tenant subletting the Property, or any part of it, and from taking in a lodger and from otherwise parting with, or giving up to another person, possession of the property, or any part of it.
3. Separately, the agreement, at paragraph 16, placed an obligation upon the Respondent to take reasonable care of the Property and common parts,

including an obligation to keep the Property adequately ventilated and heated, to avoid danger to the Property or neighbouring properties by way of fire or flooding and to ensure the Property and its fixtures and fittings are kept clean during the tenancy.

4. The Applicant became aware that the Respondent had sub-let the Property, or parts of it.
5. The Applicant became aware that the Property became infested with cockroaches, requiring the services of a pest control company.
6. The Applicant became aware of damage being caused to water pipes within the Property, resulting in water leaks which affected neighbouring properties resulting in an insurance claim being made as a result of the damage caused.
7. The Applicant became aware that the Respondent had not kept the Property clean and tidy nor well ventilated, resulting in mould within the Property.
8. The Respondent was also in arrears of rent, although the application to the Tribunal was not founded upon rent arrears. The arrears of rent were referred to in relation to the issue of reasonableness of the grant of an eviction order.
9. A Notice to Leave dated 21 June 2024 was served upon the Respondent.
10. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.

## **THE CASE MANAGEMENT DISCUSSION**

11. The Applicant participated in the Case Management Discussion. She was also represented by Mr I Sargison of Messrs Thorntons Law LLP. 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.
12. Mr Sargison moved the Tribunal to grant an eviction order. Reference was made to supporting documentation submitted to the Tribunal when the Application was presented and to further submissions presented thereafter, including an affidavit from the Applicant referring to the Property and the grounds upon which an eviction was sought. The affidavit is dated 11 April 2025. As at that date arrears of rent amounted to £1,980.00. The arrears of rent had increased since then but, as stated, the arrears did not, in themselves, form a basis for the application for an eviction order.

13. The Applicant confirmed that, to the best of her knowledge, the Respondent is still residing in the Property. The Applicant advised the Tribunal that on the morning of the Case Management Discussion she had received messages from neighbours who had advised that there appears to be another person residing in the Property with the Respondent, that being a male person called Robert who is apparently the cousin of the Respondent. The Applicant has had no prior knowledge of this person residing there and has not consented to any other person residing there.
14. Documents submitted to the Tribunal in support of the application confirmed the Respondent had sub-let the Property, that there had been an infestation of cockroaches which affected the Property and neighbouring properties, that there had been damage to water pipes causing damage to the Property and neighbouring properties, and that the Property had not been properly ventilated, causing mould.
15. In relation to the Respondent's personal circumstances, she is a single female. She is originally from Nigeria. She does not have any dependants. The Applicant is not aware of any health issues affecting the Respondent. The Respondent, approximately one year ago, advised the Applicant that she may be depressed but, aside from that, there are no known medical issues affecting the Respondent.
16. On the basis of the information presented to the Tribunal, the Tribunal considered it appropriate and reasonable that an eviction order be granted.
17. The application to the Tribunal requested that the period of charge for removing be reduced from 14 days to one of 48 hours, in terms of s216(4) of the Bankruptcy and Diligence Etc. (Scotland) Act 2007. Mr Sargison, however, intimated that this part of the application was no longer insisted upon.

## **FINDINGS IN FACT**

18. The Tribunal found the following facts to be established:-
  - a. By lease between the parties the Applicant let the Property to the Respondent.
  - b. The lease contains a prohibition upon the sub-letting of the Property, or any part of it, a prohibition on taking in a lodger and a prohibition upon parting with, or giving up to another person, possession of the property, or any part of it.
  - c. The Respondent has sub-let part or parts of the Property. Correspondence between the Respondent and others confirmed that the Respondent had taken a deposit from other persons and had made reference within correspondence to arrears of rent due to her.
  - d. The taking of a lodger, or the sub-letting of the Property is a breach of clause 11 of the tenancy agreement.
  - e. The Property became infested with cockroaches. The infestation spread to neighbouring properties. The cockroach infestation

required the repeated attendance of a pest control company to remove the infestation from the Property and neighbouring properties.

- f. Water pipes within the property were damaged due to fault on the part of the Respondent. The damage to the water pipes resulted in water leaking from the Property and this affected neighbouring properties. A plumbing company required to attend to effect repairs. An insurance claim resulted from this.
- g. The Respondent did not properly ventilate the Property. As a result, mould or condensation was evident within the Property.
- h. The failure to maintain the Property in a clean and tidy condition, the causing of damage to water pipes, resulting in water leaks affecting the Property and neighbouring properties and the causing of mould within the Property constitute a breach of clause 16 of the tenancy agreement.
- i. A notice to leave was served upon the Respondent detailing a breach of the tenancy agreement as a ground of eviction.
- j. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.

## **REASONS FOR DECISION**

- 19. The Applicant sought an eviction order due to various breaches of the tenancy agreement. The Tribunal had before it information which confirmed that other persons had been permitted to reside within the Property upon payment of a deposit and rent to the Respondent. The Applicant did not consent to any other persons residing at the property and, in the circumstances, this constituted a breach of clause 11 of the tenancy agreement.
- 20. The Tribunal had significant information before it to confirm that the Property became infested with cockroaches, that the Respondent failed to take steps timeously to advise the Applicant, or any other person, of the cockroach infestation, resulting in a significant infestation arising and spreading to neighbouring properties. The Tribunal had information that confirmed a pest control company required to attend to deal with the infestation, requiring many visits over a number of weeks.
- 21. The Tribunal was provided with information from a plumber in relation to the leaking of water pipes caused due to damage. The damage was caused by the Respondent storing various items within a cupboard in a manner which caused damage to the water pipes. The leaking of the water pipes caused damage to the Property and neighbouring properties resulting in an insurance claim being made.
- 22. A report from a tradesman confirmed mould had been caused due to a lack of ventilation within the Property
- 23. In the absence of any appearance by the Respondent, there was no information before the Tribunal to contradict the documentation presented in support of the Application.

24. There was no information before the Tribunal to suggest that it was anything other than reasonable that an eviction order be granted.

## **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 11 of schedule 3 to said Act

Order not to be executed prior to 12 noon on 4 June 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

28 April 2025

Legal Member/Chair

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Date