



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/4366

Re: Property at 24 Moidart Place, Glasgow, G52 1BA (“the Property”)

Parties:

Ms Sharron Mary McFadyen, 28 Eldergrove Place, Glasgow, G22 6QN (“the Applicant”)

Ms Nicola Sweeney, 24 Moidart Place, Glasgow, G52 1BA (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 16th September 2024. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on grounds 1 and 12 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 22nd February 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 30th April 2025 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 15th March 2025.
3. On 11th April 2025, the Applicant’s solicitor emailed the Housing and Property Chamber attaching a further rent account for the period 1st June 2023 – 1st April 2025 showing the arrears as being £15170. The Tribunal deemed this to be a

request that the amount sought be increased to £15170. The email also lodged further Pre Action Requirement letters. The contents of this email were notified to the Respondent by the Housing and Property Chamber.

4. On 26th February 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent personally. This was evidenced by Certificate of Intimation dated 26th February 2025.
5. The case was conjoined with case FTS/HPC/CV/42/4363.

The Case Management Discussion

6. A CMD was held on 30th April 2025 at 2pm by teleconferencing. The Applicant was represented by Ms Emily McFadyen, Solicitor, Mellicks. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
7. The original landlord died in October 2023. Confirmation was granted on 24th April 2024. The Executors now wish to sell the Property. It would be of detriment to sell the Property with a sitting tenant. In particular one who was in such substantial arrears and had not made one full payment of rent since starting the tenancy.
8. There has been no contact from the Respondent. There have been no offers of payment. There are no known issues with Universal Credit Housing Element. The last contact from the Respondent was on by email on 19th October 2024 when the Respondent emailed to say that she had no alternative accommodation. In the email, the Respondent also said that she had a caseworker and solicitor helping her. Neither her caseworker nor her solicitor have contacted the Applicant's. The Respondent did not forward details of her case worker or her solicitor. The arrears are now £15170. The Respondent has never made a full payment to her rent. She has not paid any rent since 28th May 2024 when she made a partial payment of £500.
9. The Tribunal considered that there were no issues of reasonableness which prevented it from granting an order for eviction. The Tribunal accordingly granted an order for eviction.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 1st June 2023.
11. The Respondent persistently failed to pay her rent charge of £800 per month. The rent payments are due to be paid on the first day of each month.
12. Arrears accrued to more than three months rent arrears at the date of application and were more than three months rent arrears at the date of the CMD. The Respondent last paid towards her rent on 28th May 2024. The

amount paid was £500 which is less than the monthly rent charge. When the application was raised the amount sought was £9570. This has increased substantially since that point.

13. There are no known outstanding Universal Credit Housing Element issues.

14. The arrears sought now are £15170. The Tribunal was satisfied that the Respondent had been aware that a higher amount was being sought in the application for a payment order.

15. The Applicants now wish to sell the Property. They have instructed specialist solicitors to assist with the sale.

16. There are no issues of reasonableness that prevent an order from being granted.

Decision

17. The Tribunal found that grounds 1 and 12 have been established and granted an order in favour of 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.

G Miller

30th April 2025

Legal Member/Chair

Date