

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/22/3797

Re: Property at 100 Queens Crescent, Chapelhall, ML6 8SX (“the Property”)

Parties:

Mrs Claire Lees, 2A Nisbet Street, Airdrie, ML6 8RJ (“the Applicant”)

Ms Candice McGuire, 100 Queens Crescent, Chapelhall, ML6 8SX (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Melanie Booth (Ordinary Member)

BACKGROUND

1. By lease dated 27th April 2020 the Applicant let the Property to the Respondent;
2. The commencement date of the lease was 27th March 2020;
3. The rent payable is £575 per calendar month, payable in advance;
4. The Respondent quickly fell into arrears of rent resulting in the Applicant presenting applications to the Tribunal for eviction (EV/22/3797) and for payment of rent arrears (CV/22/3798);
5. As at the date of the application to the Tribunal, the arrears of rent amounted to in excess of £3,000.00;
6. The Respondent submitted a time to pay application seeking time to pay the outstanding rent at a rate of £100.00 per month. In the application the Applicant made reference to a variety of difficulties which, according to her, caused the rent arrears to accrue. She also made reference to the fact that she cares for her disabled daughter;

7. The offer of time to pay was not accepted by the Applicant. It was pointed out that, while the majority of the rent is currently being paid by way of benefits, there was still a shortfall of £91.51 each month. If payment was to be made at £100.00 per month, £91.51 of that amount would go towards the shortfall in rent and only £8.49 would go towards the arrears. Given the level of the arrears, that would result in repayment taking several years;

THE CASE MANAGEMENT DISCUSSION

8. An updated rent statement was submitted in advance of the Case Management Discussions held on 21st April 2023. The amount of arrears at that point were £4,217.63. The Respondent accepted that figure as being accurate. The Applicant invited the Tribunal to grant an order for eviction and an order for payment of rent arrears;
9. The Respondent opposed the order for eviction. She referred to the various difficulties giving rise to the arrears of rent. She referred to the fact that she has secured employment which will improve her financial position. She explained also that the request for time to pay at £100.00 per month related purely to the arrears. She explained that it was her intention to pay £200.00 per month, that being £91.51 to cover the shortfall between the benefit payments and the full amount of rent, the balance - £108.49 – being applied towards the arrears. She also explained that she has a 13 year old daughter who has a disability. Her daughter attends a local school. She did not agree to an eviction order being granted;
10. In the circumstances, given that issues of reasonableness in relation to the eviction had been raised, the Tribunal required to assign a hearing in relation to the eviction application. After discussing matters with the Parties, it was agreed that the payment action would be continued to a hearing also;
11. The Tribunal intimated to the Applicant's representative that, if they intended to rely upon the history of arrears and any failed payment plans in the past, information in relation to that may be relevant and it would be of assistance to the Tribunal to have further details. This was also stated in the note issued to Parties after the Case Management Discussion.
12. The Tribunal intimated to the Respondent that, if she intended to rely upon the medical position of her daughter, further information in relation to that may be of assistance. Separately, the Tribunal intimated that either the increase or decrease in the level of arrears between now and any hearing assigned would undoubtedly be taken into account in determining the issue of reasonableness in relation to the eviction. This was also stated in the note issued to Parties after the Case Management Discussion.

THE HEARING

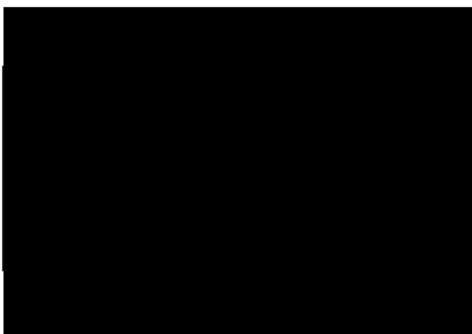
13. A Hearing was assigned for 28 July 2023 at 10am. Neither Party participated in the Hearing. The Tribunal did not convene until 10.10 am to afford an opportunity for Parties to attend late. They did not.
14. Neither Party had provided any further submissions, documents nor other evidence between the Case Management Discussion and the Hearing, despite the discussion which took place at the Case Management Discussion and the terms of the written note issued to Parties thereafter.
15. In the circumstances, the Tribunal dismissed the application for want of insistence.

DECISION

The Tribunal dismissed the application.

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.



Legal Member/Chair

28 July 2023

Date