

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

Chamber Ref: FTS/HPC/EV/21/1105

Re: Property at 19 (flat 14) Macgill Drive, Edinburgh, EH4 4FD (“the Property”)

Parties:

Muirhouse Homes Limited, 11 Muirhouse Medway, Edinburgh, EH4 4RW (“the Applicant”)

Mr Chris Tait, 19 (flat 14) Macgill Drive, Edinburgh, EH4 4FD (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Melanie Booth (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 15th August 2015 the Applicants Let the property to the Respondent;
2. The rent, initially, was £518.00 per calendar month. The Lease made provision for increases in rent and, throughout the duration of the lease, the rent was increased, ultimately to an amount of £603.35 per calendar month;
3. Arrears of rent began accruing from 1st October 2019 and thereafter consistently increased. As at the date of application to the Tribunal (11 May 2021), the rent arrears amounted to £9,897.46;
4. As at the date of the case management discussion (23rd July 2021) the arrears had risen to £11,104.16;
5. A Notice in terms of Section 19 of the Housing (Scotland) Act 1988 – commonly referred to as a Form AT6 - was served upon the Respondent by Sheriff Officers, service being effected on 21st July 2020. The notice was dated 20th July 2020, intimated an intention to raise proceedings for recovery of possession in terms of grounds 8, 11 and 12 of schedule 5 of

the Housing (Scotland) Act 1988 and intimated that proceedings would not be raised before 23rd January 2021;

6. A notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 had been intimated to the local authority;
7. The Applicant had attempted to engage with the Respondent over a long period of time to discuss the arrears which had arisen;

THE CASE MANAGEMENT DISCUSSION

8. The Applicant was represented by Mrs S Sedstrem of Muirhouse Homes Limited. The Respondent did not participate in the Case Management Discussion. The Tribunal was in receipt of an execution of service by sheriff officers confirming that the place, date and time of the Case Management Discussions had been intimated to the Respondent, together with a copy of the case papers. In the circumstances the Tribunal, being satisfied in terms of Rule 24 of The First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the “FTT Rules”) that the Respondent had received reasonable notice of the same determined that it was appropriate to proceed in accordance with Rule 29 of the FTT Rules;
9. Miss Sedstrem advised the Tribunal that, since the application had been presented, there had been no further payments of rent paid by the Respondent. The rent arrears had increased to £11,104.16. She moved the Tribunal to amend the amount claimed to that amount in terms of Rule 14A of the FTT Rules and the Tribunal allowed that amendment;
10. Miss Sedstrem also moved the Tribunal to grant an Order for eviction on the basis of the significant, longstanding arrears of rent;

FINDINGS IN FACT

11. The Tribunal found the following facts to be established:-
 - a) By Lease dated 15th August 2015 the Applicants Let the property to the Respondent;
 - b) The rent, initially, was £518.00 per calendar month. The Lease made provision for increases in rent and, throughout the duration of the lease, the rent was increased, ultimately to an amount of £603.35 per calendar month;
 - c) Arrears of rent began accruing from 1st October 2019 and thereafter consistently increased. As at the date of application

to the Tribunal (11 May 2021), the rent arrears amounted to £9,897.46;

- d) As at the date of the case management discussion (23rd July 2021) the arrears had risen to £11,104.16;
- e) A Notice in terms of Section 19 of the Housing (Scotland) Act 1988 – commonly referred to as a Form AT6 - was served upon the Respondent by Sheriff Officers, service being effected on 21st July 2020. The notice was dated 20th July 2020, intimated an intention to raise proceedings for recovery of possession in terms of grounds 8, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988 and intimated that proceedings would not be raised before 23rd January 2021;
- f) A notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 had been intimated to the local authority;
- g) The Applicant had attempted to engage with the Respondent over a long period of time to discuss the arrears which had arisen and had therefore complied with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;
- h) Both at the date of service of the Form AT6 and as at the date of the Case Management Discussion, at least 3 months rent lawfully due from the respondent was in arrears;
- i) The Respondent has persistently failed to make payment of rent which has become due;
- j) Some rent lawfully due from the Respondent was unpaid on the date proceedings commenced and also as at the date of service of the Form AT6;
- k) The arrears had not arisen as a result of the delay nor failure of payment of any relevant benefit;
- l) An amount of £11,104.16 was due by the Respondent to the Applicant;
- m) It is reasonable that an order for eviction be granted;

REASONS FOR DECISION

12. The information available to the Tribunal made it clear that there had been long standing and significant arrears of rent;

13. The Landlords had provided information which made it clear that they had made significant efforts to contact the Respondent in relation to the rent arrears. In the circumstances, the Tribunal was satisfied that the Applicant had complied with the pre action protocol contained within The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;

14. Given the nature and extent of the arrears, the Tribunal was satisfied that it was reasonable to grant an Order for eviction;
15. On the basis of the information available, the Tribunal had no reason not to grant an Order for payment of the arrears in the amount of £11,104.16;

DECISION

The Tribunal grants order to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings forth and from the Property at 19 (flat 14) Macgill Drive, Edinburgh, EH4 4FD and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

Order not to be executed prior to 12 noon on 30 August 2021

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.

V. C

23 July 2021

Legal Member/Chair

Date