



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

Chamber Ref: FTS/HPC/EV/23/1756

Re: Property at 6 Rigghouse Road, Heartlands, Whitburn, EH47 0SG (“the Property”)

Parties:

Gemma Graham, 4 Bridgeton Cottage, Westfield, Bathgate, EH48 3DL (“the Applicant”)

Mr Brian Reid, 6 Rigghouse Road, Heartlands, Whitburn, EH47 0SG (“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 that

BACKGROUND

1. By lease dated 29 November 2019 the Applicant let the Property to the Respondent and his wife, Rosie Reid. During the early part of 2022 Rosie Reid vacated the premises and the Respondent signed documentation to continue the tenancy and accepted sole responsibility for all obligations thereunder.
2. The rent payable in terms of the lease was originally £750.00 per calendar month. That was subsequently increased to £775.00 per calendar month.
3. Arrears of rent began accumulating from the end of June 2022.

4. A Notice to Leave was served upon the Respondent on 19 April 2023. At that time arrears of rent amounted to not less than £5,150.00.
5. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.
6. The Applicant complied with the Pre-Action Protocol in relation to rent arrears.
7. On 31 May 2023 the Applicant presented two applications to the Tribunal seeking an order for eviction (EV/23/1756) and an order for payment (CV/23/1761).
8. A Case Management Discussion was assigned for each case to call at 2pm on 18 September 2023, the Case Management Discussions proceeding by way of teleconference. As at that time arrears of rent had increased to £9,534.59.
9. At the time of service of the Notice to Leave, the subsequent application to the Tribunal and at the date of the Case Management Discussions arrears of rent amounted to in excess of 6 months rental payments and were, accordingly, considered to be substantial in terms of ground 12A of Schedule 3 of the Private Tenancies (Housing) (Scotland) Act 2016 ("the 2016 Act").

THE CASE MANAGEMENT DISCUSSION

10. The Applicant participated in the Case Management Discussion. She was represented by Miss Emily McFadyen, Solicitor, Messrs Mellicks Solicitors, Glasgow. Her husband, John Graham, joined the proceedings as an observer.
11. 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. In advance of the Case Management Discussion the Applicant had submitted an updated rent statement showing that rental payments had not been made on a continuing basis. As at the date of the Case Management Discussion the arrears of rent amounted to £9,534.59. Miss McFadyen asked the Tribunal to amend the amount claimed to that amount. In the absence of any

appearance by the Respondent the Tribunal allowed the amendment. The Tribunal, thereafter, granted an order for payment in the amount of £9,534.59 with interest thereon at the rate of 5% per annum.

13. In relation to the Application for an Eviction Order, the Tribunal made enquiry in relation to issues of reasonableness. Miss McFadyen advised the Tribunal of the following:-

- There had been no contact between the Respondent and the Applicants for many months.
- There had been no payment of rent since 2022.
- The Respondent had failed to enter into any discussions with the Applicant or the letting agents.
- The Respondent had failed to respond to correspondence seeking payment negotiations or proposals.
- No reasonable explanation has been offered by the Respondent in relation to his failure to make payment of rent.
- The Respondent lives alone at the Property.
- The Applicant is not aware of any issue with non-payment of Housing Benefit or Universal Credit.
- The Respondent has no known medical conditions.
- In relation to the Applicant, the Property is the only one she rents out.

14. Having regard to the significant arrears of rent, the failure of the Respondent to engage with the Applicant in relation to arrears, the failure of the Respondent to participate the Tribunal proceedings and the known circumstances of the Respondent, the Tribunal considered that it was reasonable that an order for eviction by granted.

FINDINGS IN FACT

15. The following facts were held to be established:-

- a) By lease dated 29 November 2019 the Applicant let the Property to the Respondent and his wife, Rosie Reid. Early in 2022 Rosie Reid vacated the premises and the Respondent signed documentation to continue the tenancy and accepted sole responsibility for all obligations thereunder.
- b) The rent payable in terms of the lease was originally £750.00 per calendar month. That was subsequently increased to £775.00 per calendar month.
- c) Arrears of rent began accumulating from the end of June 2022.
- d) A Notice to Leave was served upon the Respondent on 19 April 2023. At that time arrears of rent amounted to not less than £5,150.00.
- e) A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.
- f) The Applicant complied with the Pre-Action Protocol in relation to rent arrears.

- g) When the Notice to Leave was served arrears of rent amounted to not less than £5,150.00. As at the date of the Case management Discussion arrears of rent had increased to £9,534.59.
- h) At the time of service of the Notice to Leave, the subsequent application to the Tribunal and at the date of the Case Management Discussions arrears of rent amounted to in excess of 6 months rental payments and were, accordingly, substantial in terms of ground 12A of Schedule 3 of the Private Tenancies (Housing) (Scotland) Act 2016 (“the 2016 Act”).
- i) It is reasonable in the circumstances that an order for eviction be made.

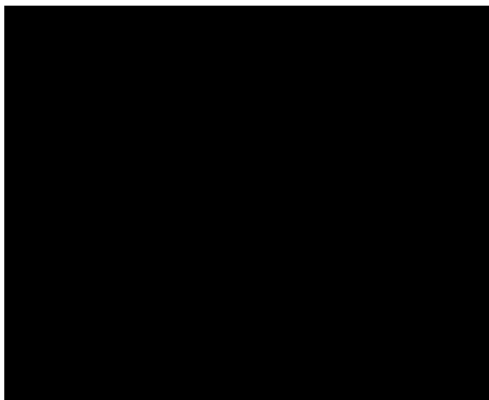
DECISION

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 12A of Schedule 3 to said Act and

Order not to be executed prior to 12 noon on 25 October 2023

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.



Date: 18 September 2023