



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

Chamber Ref: FTS/HPC/EV/23/1819

Re: Property at 1/1 49 Kenley Road, Renfrew, PA4 8BN (“the Property”)

Parties:

Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)

Mr Gavin Dickie, Ms Samantha Smith, 1/1 49 Kenley Road, Renfrew, PA4 8BN (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondents)

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

BACKGROUND

1. By lease dated 30 July 2021 the Applicant let the property to the Respondents.
2. The rent payable was £650.00 per calendar month. This was subsequently increased to £659.75 per calendar month.
3. Since May 2022 arrears of rent have been accruing. As a result, the Applicant served a Notice to Leave upon the Respondents.
4. A Notice to Leave was served on 17 April 2023. The ground of eviction was ground 12A of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act

2016 (“the 2016 Act”), that being there were substantial arrears of rent. As at that date arrears of rent amounted to £4,378.00.

5. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.
6. On 3 June 2023 the Applicants presented two separate Applications to the Tribunal, one seeking an order for Eviction (EV/23/1819) and one seeking an order for payment of rent arrears (CV/23/1820). As at that date the arrears of rent amounted to £5,697.50.
7. A Case Management Discussion was assigned for each case to take place by teleconference on 2 October 2023. Prior to the Case Management Discussion an updated rent statement was submitted to the Tribunal. As at 1st September 2023 the arrears of rent amounted to £7,716.33.
8. The lease provided for payment of interest at the rate of 3% per annum on late payments of rent.

THE CASE MANAGEMENT DISCUSSION

9. The Applicant was represented by David Adams, Solicitor. The Respondents 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 Respondents. 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;

Rent Arrears

10. In relation to rent arrears, despite the increasing amount of arrears, Mr Adams moved the Tribunal to grant an order for payment in the amount originally sought, that being £5,697.50 with interest thereon at the rate of 3% per annum. In the absence of any opposition from the Respondents, the Tribunal granted an order for payment of that amount.

Eviction

11. In relation to the application for an eviction order, Mr Adams moved the Tribunal to grant an order for eviction. Despite the absence of the Respondents, the Tribunal sought further information in relation to the Respondents. The Tribunal was advised of the following:-

- a. Mr Adams understands that, since the proceedings have been raised, Mr Dickie has vacated the premises although Miss Smith is still in occupation.
- b. It is understood that Miss Smith has a teenage son, believed to be approximately 15 or 16 years of age, residing with her.
- c. There are no known health concerns in relation to the Respondents nor the teenager residing at the property.
- d. The Applicants have no information as to why rent has not been paid.
- e. The Applicants have previously engaged with the Respondents in relation to making an arrangement for payment of arrears. Earlier in 2023 it had been agreed that a payment of £1,000.00 would be made in April 2023, a payment of £1,000.00 the following month with payments thereafter being at the rate of £910.00 per month. None of those payments have been made.
- f. It is believed Miss Smith receives Universal Credit. There are no known difficulties with payments of Universal Credit and no reason has been provided as to why any benefit payments have not been in relation to rent.

12. Having regard to the substantial arrears of rent, the information provided by the Applicant in relation to the personal circumstances of the Respondent and the absence of any further information due to the failure of the Respondents to participate in the proceedings, the Tribunal concluded that it was reasonable for an order for eviction to be granted.

FINDINGS IN FACT

13. The Tribunal found the following facts to be established:-
- a. By lease dated 30 July 2021 the Applicant let the property to the Respondents.
 - b. The rent payable was £650.00 per calendar month. This was subsequently increased to £659.75 per calendar month.
 - c. Since May 2022 arrears of rent have been accruing. As a result, the Applicant served a Notice to Leave upon the Respondents.
 - d. A Notice to Leave was served on 17 April 2023. The ground of eviction was ground 12A of Schedule 3 of the 2016 Act. As at that date arrears of rent amounted to £4,378.00.
 - e. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.
 - f. As at 1st September 2023 the arrears of rent amounted to £7,716.33.
 - g. The lease provided for payment of interest at the rate of 3% per annum on late payments of rent.
 - h. It is reasonable in the circumstances that an order for eviction be granted.

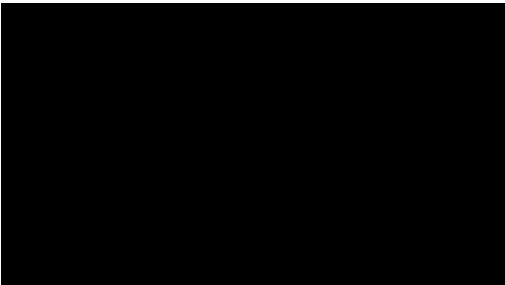
DECISION

The Tribunal granted an order against the Respondents for eviction of the Respondents from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12A of Schedule 3 of said Act

Order not to be executed prior to 12 noon on 8th November 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.



Legal Member/Chair

2nd October 2023

Date