



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

**Chamber Ref: FTS/HPC/EV/23/2016**

**Re: Property at 29 Mayfield Road, Hamilton, Lanarkshire, ML3 9LL (“the Property”)**

**Parties:**

**Amexx UK Properties Ltd, Family Choice, 78-80 Farm Road, Hamilton, Scotland, ML3 9LD (“the Applicant”)**

**Miss Nicola Allison, 29 Mayfield Road, Hamilton, Lanarkshire, ML3 9LL (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and Ahsan Khan (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 5 October 2016 the Respondent rented the property from Mohammed Amir. The lease is a Short Assured Tenancy in terms of s32 of the Housing (Scotland) Act 1988 (“The 1988 Act”).
2. A Notice in terms of s32 of the 1988 Act – commonly referred to as a Form AT5 – was signed by the Respondent prior to execution of the lease.
3. The landlord transferred his heritable title to the Property to a limited company, Amexx UK Properties Limited, the transfer taking place on 5 November 2020. The Respondent received intimation of the transfer of ownership.

4. The Respondent fell into arrears of rent. As a result, the Applicant took steps to end the tenancy. A Notice to Quit and a Notice in terms of s33 of the 1988 Act were served upon the Respondent by Sheriff Officers.
5. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.

## **THE CASE MANAGEMENT DISCUSSION**

6. A Case Management Discussion was held at 2pm on 2<sup>nd</sup> October 2023. The Applicant was represented by Mrs S Siddique of Messrs TCH Law, Hamilton. 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
7. Mrs Siddique moved the Tribunal to grant an order for eviction. It was pointed out to the Tribunal that, while there was no separate action before the Tribunal seeking an order for payment of rent arrears, rent arrears in relation to the property were substantial. The rent payable was £600.00 per calendar month. As at 2<sup>nd</sup> October 2023 the arrears amounted to £8,108.00.
8. In relation to the issue of reasonableness, the Tribunal made enquiry and was advised of the following:-
  - a. The Applicant is believed to reside at the property together with her partner and four children, the children are to be believed to be 5 years, 12 years, 15 years, and 18 years old.
  - b. The Applicant is believed to be in receipt of state benefits.
  - c. While some payments were made towards rent on an ongoing basis, it is believed these are from state benefits. Each month, however, there is a significant shortfall which is not made up resulting in the substantial level of arrears having accrued over time.
  - d. There are no known physical or mental health issues affecting the Respondent nor any of her family.
  - e. Historically, there have been problems with payment of rent often being paid late, quite aside from the shortfall which has now built up.
9. Having regard to the circumstances, the Tribunal concluded that it was reasonable that an Order for Eviction be granted.

## **FINDINGS IN FACT**

10. The Tribunal found the following facts to be established:-

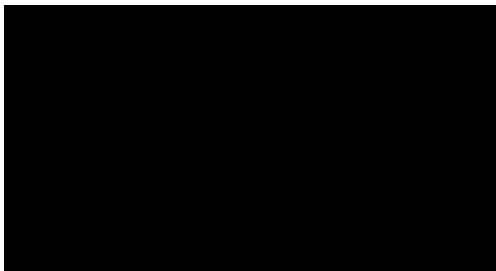
- a. By lease dated 5 October 2016 the Respondent rented the property from Mohammed Amir. The lease is a Short Assured Tenancy.
- b. A Notice in terms of s32 of the 1988 Act – commonly referred to as a Form AT5 – was signed by the Respondent prior to execution of the lease.
- c. The landlord transferred his heritable title to the Property to a limited company, Amexx UK Properties Limited, the transfer taking place on 5 November 2020.
- d. The Respondent received intimation of the transfer of ownership.
- e. The Respondent fell into arrears of rent. As a result, the Applicant took steps to end the tenancy.
- f. A Notice to Quit and a Notice in terms of s33 of the 1988 Act were served upon the Respondent by Sheriff Officers.
- g. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.
- h. It is reasonable in the circumstances that an order for eviction is granted.

## **DECISION**

The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under s33 of the 1988 Act

### **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**

**2<sup>nd</sup> October 2023**

**Date**

