



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 33 of the Housing (Scotland) Act
1988**

Chamber Ref: FTS/HPC/EV/23/2249

Property: 20 Crosshill Avenue, Kirkintilloch, Glasgow, G66 3BY

Parties:

**Mr Clive Mooney and Miss Stephanie Fallon, 4 Iro Villas, Woodhead Road,
Chryston, Glasgow, G69 9JE, ("the Applicants")**

**Ms Michelle Cassidy-Wilkie, 20 Crosshill Avenue, Kirkintilloch, Glasgow, G66 3BY
("the Respondents")**

**Tribunal Members: Gillian Buchanan, Legal Member
Gerard Darroch, Ordinary Member**

Decision

At the Case Management Discussion ("CMD") which took place by telephone conference on 26 September 2023, the Applicants were not present but were represented by Ms Sharon Cooke of CODA Estates Limited. The Respondent was present.

Prior to the Hearing the Tribunal had received from the Respondent an email dated 26 August 2023 with attachments.

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

Background

The Tribunal noted the following background:-

- i. The Applicants leased the Property to the Respondent in terms of a Short Assured Tenancy Agreement ("the SAT") that commenced on 29 December 2015 for a period of 6 months and that continues thereafter on a month to month basis.
- ii. The rent payable in terms of the SAT was agreed to be £595 per calendar month payable in advance on the 29th day of each month.
- iii. On 19 January 2023, the Applicants served on the Respondent by recorded delivery post a Notice to Quit and a Notice under Section 33 of the Housing (Scotland) Act 1988 requiring that the Respondent remove from the Property by 29 March 2023.
- iv. The Application for an eviction order is dated 6 July 2023 and proceeds on the basis of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.

- v. Within the Application papers is a Rent Statement showing the rent arrears due by the Respondent to the Applicants to be £2,069.33 as at 28 June 2023.

The CMD

At the CMD the Applicants' representative, Ms Cooke, made the following oral submissions:-

- i. The current rent arrears due are £1,969.27.
- ii. The ongoing monthly rent is being paid in part by Universal Credit payments of £410.73 per month and in part by the Respondent in the sum of £184.27 per month. This has been the position since June 2023.
- iii. Whilst the ongoing rent is being maintained, no payments are being made towards the arrears. Ms Cooke understood that the Respondent was simply not able to make any payments towards the rent arrears.
- iv. Ms Cooke described the Respondent as having been a "fantastic tenant" throughout the SAT. The rent arrears only accrued from September 2022 and the Applicants and the Respondent had always had a very good rapport.
- v. The Applicants understood that the Respondent had suffered financial hardship.
- vi. The Section 11 Notice was intimated to the local authority on 6 July 2023.
- vii. The Applicants are sympathetic to the Respondent's situation and wish to support her in finding alternative accommodation. The Applicants therefore seek an eviction order.

At the CMD the Respondent made the following oral submissions:-

- i. Since September 2022 the Respondent has been unable to work as a nurse. She became unable to walk due to osteoarthritis in her right hip for which she is still awaiting surgery. From then until April 2023 she was receiving physiotherapy and was using crutches.
- ii. The Respondent is still using crutches if walking but is more mobile and has a part-time term-time job as a wellbeing support assistant at a local school. Her employment is low paid and therefore she qualifies for Universal Credit towards her rent.
- iii. It took a while for her Universal Credit application to be determined. It was not backdated to September 2022.
- iv. The Respondent had also accrued Council Tax liabilities and debts for her utilities.
- v. The Respondent was able to start topping up her rent from June 2023.
- vi. The Respondent simply cannot make any payments towards the rent arrears at present.
- vii. The Respondent explained her situation to the local authority in March 2023 and was advised that an offer of accommodation cannot be made until an eviction order is granted.
- viii. The Property is under-occupied by the Respondent. It has 3 bedrooms. Her elder son has now moved out and her younger son is saving to move out with his girlfriend.
- ix. Obtaining local authority accommodation for herself and her younger son will allow her monthly rent liability to be less than at present and she will be able to make a proposal to clear the arrears due to the Applicants.
- x. The Respondent has been on the Common Housing Register since 2019. She believes she is 10th on the list for Milton of Campsie and 14th on the list for Kirkintilloch (or vice versa). There is no imminent prospect of housing.
- xi. The Respondent has no objection to an eviction order being granted.

Findings in Fact

- i. The Applicants leased the Property to the Respondent in terms of the SAT.
- ii. The rent payable in terms of the SAT was agreed to be £595 per calendar month payable in advance on the 29th day of each month.
- iii. On 19 January 2023, the Applicants served on the Respondent by recorded delivery post a Notice to Quit and a Notice under Section 33 of the Housing (Scotland) Act 1988 requiring that the Respondent remove from the Property by 29 March 2023.
- iv. The Respondent remains in occupation of the Property.
- v. The Application for an eviction order is dated 6 July 2023 and proceeds on the basis of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.
- vi. The current rent arrears due are £1,969.27. The rent arrears only accrued from September 2022.
- vii. The ongoing monthly rent is being paid in part by Universal Credit payments of £410.73 per month and in part by the Respondent in the sum of £184.27 per month. This has been the position since June 2023.
- viii. Whilst the ongoing rent is being maintained, no payments are being made towards the arrears due to the Respondent's financial hardship.
- ix. The Respondent had been a "fantastic tenant" throughout the SAT.
- x. Since September 2022 the Respondent has been unable to work as a nurse. She became unable to walk due to osteoarthritis in her right hip for which she is still awaiting surgery. From then until April 2023 she was receiving physiotherapy and was using crutches.
- xi. The Respondent has a part-time term-time job as a wellbeing support assistant at a local school. Her employment is low paid and therefore she qualifies for Universal Credit towards her rent.
- xii. The Respondent's entitlement to Universal Credit was not backdated to September 2022.
- xiii. The Respondent had also accrued Council Tax liabilities and debts for her utilities.
- xiv. The Respondent cannot make any payments towards the rent arrears at present.
- xv. The Property is under-occupied by the Respondent. It has 3 bedrooms. Her elder son has now moved out and her younger son is saving to move out with his girlfriend.
- xvi. The Respondent has been on the Common Housing Register since 2019. There is no imminent prospect of housing.
- xvii. The Respondent has no objection to an eviction order being granted.

Reasons for Decision

There were no factual matters of dispute between the parties.

The Tribunal considered whether or not it would be reasonable to grant an eviction order. In that the Respondent had no objection to an eviction order being granted as to do so would assist her in her pursuit of alternative accommodation the Tribunal determined it would be reasonable to grant an eviction order.

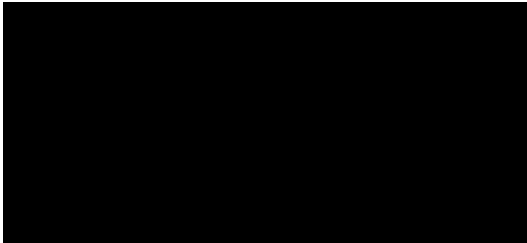
Decision

The Tribunal grants an eviction order in favour of the Applicants.

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

Date 26th September 2023