



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

Chamber Ref: FTS/HPC/CV/21/0570

**Re: Property at Flat 8, 145 Hamilton Road, Cambuslang, Glasgow, G72 7PL
("the Property")**

Parties:

**Snug Scotland Ltd, 2 Craigenlay Avenue, Blanefield, Glasgow, G63 9DR ("the
Applicant")**

**Miss Danielle Lamont, Flat 8, 145 Hamilton Road, Cambuslang, Glasgow, G72
7PL ("the Respondent")**

Tribunal Members:

Virgil Crawford (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

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

BACKGROUND

1. The Respondent is the tenant of the Property. The tenancy was previously a short assured tenancy in terms of the Housing (Scotland) Act 1988. That tenancy commenced during April 2014;
2. At the commencement of the short assured tenancy the Landlords were Hamilton Road Developments LLP. The Applicants purchased the property on 12th October 2018 and, with effect from that date, became the Landlords;
3. The parties subsequently agreed to vary the tenancy agreement and on 20th November 2019 the parties entered into a private residential tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act");
4. The rent payable throughout the period of the tenancy (both tenancies) was £495 per calendar month;



5. Shortly after the Applicants purchased the property the Respondent fell into arrears of rent. Arrears began accruing from 1st January 2019 and consistently increased thereafter. As at the date of commencement of the private residential tenancy referred to above the arrears of rent amounted to £3,200.00. Thereafter, during the currency of the private residential tenancy, an additional amount of £2,028.40 in arrears arose;
6. The Applicants letting agents made repeated attempts to engage with the Respondent in relation to rent arrears and also made repeated efforts to have Housing Benefit payments, which were being made directly to the Respondent, paid directly to the Applicants, all without success;
7. Following the service of a Notice to Leave upon the Respondent, the letting agents for the Applicants made further efforts to engage with the Respondent, without making any meaningful progress;
8. A Notice to Leave was served upon the Respondent dated 5 August 2020;
9. The Applicant subsequently presented 3 separate applications to the Tribunal as follows:-
 - EV/21/0569 – application for eviction;
 - CV/21/0570 – application for rent arrears accrued during subsistence of private residential tenancy;
 - CV/21/0572 – application for rent arrears for the period from October 2018 until commencement of the private residential tenancy;

THE CASE MANAGEMENT DISCUSSION

10. The case management discussions were held by teleconference at 10am on Friday 4th June 2021. The Tribunal, in accordance with Rule 12 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the FTT Rules”) directed that the 3 applications under references EV/21/0569, CV/21/0570 and CV/21/0572 be heard together on the basis that they all refer to the same parties and the same property;



11. The Applicants were represented by Mr D Kennedy, Director. Miss K Miller and Miss W Gallacher were present with Mr Kennedy and were regarded as observers to the proceedings.
12. 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 Discussion had been intimated to the Respondents, together with a copy of the case papers. In the circumstances the Tribunal, being satisfied in terms of Rule 24 of 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;
13. Mr Kennedy, on behalf of the Applicants, requested the Tribunal to grant the 3 separate applications before it. He pointed out that the Applicants were requiring recovery of possession of the property. The level of debt was significant. The level of debt had arisen because the Respondent had repeatedly refused to allow housing benefit payments to be made directly to the applicant and she had not made payment herself. The rent arrears had risen to a “ridiculous” level and the Applicants business could not sustain that continuing. Repeated efforts had been made to engage with the Respondent to resolve the issue but without success;
14. Mr Kennedy advised that, since the applications were presented, housing benefit payments were now being made directly to the Applicants, via their letting agents. The payments being received, however, still did not cover the full amount of rent due. The payments being received by way of housing benefit amounted to £475 per month. £48.30 was being paid towards arrears. The Respondent had commenced making payments of £20 per month also;
15. As at the date of the Case Management Discussions, the total amount of arrears outstanding were £3,200 (under the short assured tenancy) and £2,028.40 (under the private residential tenancy). The arrears were at a level that, although they were being reduced now, it would still take many years for them to be cleared completely, assuming payments were maintained;
16. The Tribunal enquired as to whether or not it was necessary for there to be two separate orders for payment. Mr Kennedy, on behalf of the Applicants, moved the Tribunal, in terms of Rule 14A of the FTT Rules, in the application under reference CV/21/0570, to amend the



amount claimed to cover the full outstanding debt, that being £5,228.40. On that basis the application under reference CV/21/0572 would then fall to be dismissed. The Tribunal considered this application and, on the basis that the sum claimed by way of rent arrears was a continuing debt, albeit over two separate contractual periods, that in total it amounted to £5,228.40, and considering that it was more practical to have one order for payment, allowed the amendment. Failing to do so was likely only to increase the costs of enforcement as any efforts made to enforce an order for payment would result in costs which would be duplicated if there were two separate payment orders. On that basis, the Tribunal allowed the amendment proposed and, on that basis, the Tribunal, with the consent of the Applicant, indicated it would dismiss the application under reference CV/21/0572;

FINDINGS IN FACT

17. The Tribunal found the following facts to be established;
 - a) The Respondent is the tenant of the Property. The tenancy was previously a short assured tenancy in terms of the Housing (Scotland) Act 1988. That tenancy commenced during April 2014;
 - b) At the commencement of the short assured tenancy the Landlords were Hamilton Road Developments LLP. The Applicants purchased the property on 12th October 2018 and, with effect from that date, became the Landlords;
 - c) The parties subsequently agreed to vary the tenancy agreement and on 20th November 2019 the parties entered into a private residential tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”);
 - d) The rent payable throughout the period of the tenancy (both tenancies) was £495 per calendar month;
 - e) Shortly after the Applicants purchased the property the Respondent fell into arrears of rent. Arrears began accruing from 1st January 2019 and consistently increased thereafter. As at the date of commencement of the private residential tenancy referred to above the arrears of rent amounted to £3,200.00. Thereafter, during the currency of the private residential tenancy, an additional amount of £2,028.40 in arrears arose;
 - f) The Applicants letting agents made repeated attempts to engage with the Respondent in relation to rent arrears and also made repeated efforts to have Housing Benefit



- payments, which were being made directly to the Respondent, paid directly to the Applicants, all without success;
- g) A Notice to Leave was served upon the Respondent dated 5 August 2020 was served on the Respondent;
 - h) Following the service of a Notice to Leave upon the Respondent, the letting agents for the Applicants made further efforts to engage with the Respondent, without making any meaningful progress;
 - i) A notice under s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the relevant local authority;
 - j) An application for eviction was presented to the Tribunal on 12 March 2021;

 - k) At the commencement of the proceedings and as at the date of the Case Management Discussions the Respondent was in arrears of rent in an amount greater than the amount of one month's rent and had been in arrears of rent for a continuous period of three or more consecutive months;
 - l) The arrears of rent were not as a result of any failure of delay in payment of any relevant benefit;
 - m) The arrears of rent amount to £5,228.40. That sum is due and payable by the Respondent to the Applicant;
 - n) The Applicant has complied with the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;
 - o) It is reasonable that an order for eviction be granted;

REASONS FOR DECISION

18. In relation to an action for eviction, the Tribunal requires to be satisfied that it is reasonable that the Order be granted. In this case, given that the debt was significant, being in excess of 10 month rental payments, given that there had been a failure of the Respondent to engage with the Applicants prior to proceedings being raised and, indeed, after they were raised and considering the Respondent did not participate in the proceedings and did not advance any reasons for eviction not being granted, the Tribunal considered that it was reasonable, in all the circumstances, that an Order for eviction be granted;
19. The rent arrears claimed were due by the Respondent to the Applicant. There was no basis upon which the Tribunal should refuse



to grant an Order for payment. While the Applicants had presented two separate applications for payment, believing that that was necessary because of the two separate tenancy agreements, following discussion, it was ultimately considered practical that one Order for payment be granted rather than two;

20. The Respondent did not participate in the case management discussions. In the circumstances, there was no ability to seek her views in relation to any time to pay direction. From the information available to the Tribunal, it appears that the Respondent was previously, and remains, in receipt of state benefits. Having regard to the level of debt outstanding, and the information available to the Tribunal, it appeared unlikely that the Respondent would be able to make payment of the amount claimed by instalments which would enable the debt to be cleared within any reasonable timescale.

DECISION

The Tribunal grants an order for payment of the sum of FIVE THOUSAND TWO HUNDRED AND TWENTY EIGHT POUNDS AND FORTY PENCE (£5,228.40) STERLING by the Respondent to the Applicant.

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.

Virgil Crawford

4 June 2021

Legal Member/Chair

Date

Housing and Property Chamber
First-tier Tribunal for Scotland

