



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

**Chamber Ref: FTS/HPC/EV/21/0557**

**Re: Property at 10 Hillcrest Avenue, Coatbridge, ML5 3NU (“the Property”)**

**Parties:**

**Mrs Esther Tan and Richard Tan, 29 Woodward Place, Loughton Lodge, Milton Keynes, MK8 9LG (“the Applicants”)**

**Miss Hayley Bruce, Mr Michael Kerrigan, 10 Hillcrest Avenue, Coatbridge, ML5 3NU (“the Respondents”)**

**Tribunal Members:**

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

**Decision**

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

**BACKGROUND**

1. By Lease dated 1<sup>st</sup> November 2019 the Applicants let the property to the Respondents. The Lease was a private residential tenancy;
2. The rent payable was £450 per calendar month, payable in advance;
3. Arrears of rent began early in the tenancy and, as a result, the Applicants presented an application to the Tribunal seeking an order for eviction;
4. As at the date of the Case Management Discussion arrears amounted to £6,550;

**THE CASE MANAGEMENT DISCUSSION**

5. The Applicants were represented by Mrs K Stevenson of Joanna Daly Properties Limited, Coatbridge. Both Respondents participated personally in the Case Management Discussion, although Miss Bruce required to leave in the course of the Case Management Discussion to attend to childcare responsibilities. Prior to departing, however, she confirmed that she was content for Mr Kerrigan to represent her interest in the

matter. The Respondents accepted that the rent claimed was outstanding. They advised that they had stopped paying rent due to alleged defects within the Property, in particular they made reference to electrical work which was required and also issues with the windows in the Property which meant that the home was not wind and water tight. They advised that they had drawn these issues to the attention of the Letting Agents, Joanna Daly Properties Limited but, according to them the problems had not been addressed. It was conceded, however that they had not set the rental payments aside with a view to making payment of outstanding rent once any issues were dealt with;

6. Despite advising the Tribunal of that background, the Respondents made it clear – and Miss Bruce made it clear before she departed the Case Management Discussion – that they were content for an order for eviction to be granted. They were hoping to secure alternative accommodation but required an eviction order to be issued against them to enable them to be placed on a local authority housing list. If they left the current property without an eviction order they would be classed as being intentionally homeless which was likely to cause difficulties for them;
7. Mrs Stevenson accepted that the Respondents had reported issues in connection with electrical issues at the property and also with the windows at the property but advised that these matters had been attended to by reputable tradesmen.

## **FINDINGS IN FACT**

8. The Tribunal found the following facts to be admitted or established;
  - a. By lease dated 1<sup>st</sup> November 2019 the Respondents leased the property from the Applicants;
  - b. The rent payable was £450 per calendar month;
  - c. The Respondents stopped making payment of rent. This was a conscious decision by them due to alleged defects within the property;
  - d. A Notice to Leave dated 10<sup>th</sup> July 2020 was served upon the Respondents as a result of the rent arrears. The Notice to Leave permitted the required six month period of notice prior to proceedings being raised before the Tribunal;
  - e. An application for eviction was presented to the Tribunal on 11<sup>th</sup> March 2021.
  - f. A Notice in terms of section 11 of the Homelessness Etc.(Scotland) Act 2003 was intimated to the relevant local authority;
  - g. As at 4 June 2021 the arrears amounted to £6,550.00;
  - h. The rent arrears which had arisen were not as a result of any failure or delay in the payment of any relevant benefit;
  - i. As at the date of service of the Notice to Leave and as at the date of commencement and determination of the proceedings, an amount of rent in excess of one months rent payment was outstanding and there had been arrears of rent for a continuous period of more than 3 months;

- j. The Respondents each consented to an Order for eviction being granted;
- k. It is reasonable in all the circumstances that an Order for eviction be granted.

## **REASONS FOR DECISION**

9. The order for eviction sought by the Applicants was not opposed by the Respondents. Indeed, they actively invited such an order from the Tribunal to assist them in their intention to secure alternative accommodation, advising that, if they left the property without an eviction order, local authorities would consider them to be intentionally homeless which would affect their ability to secure accommodation.
10. Although the Respondents explained why they had stopped paying rent, it was conceded that they had not kept any rent payments aside with a view to making payment at a later stage. In any event, given the restricted nature of the application before the Tribunal and the fact that the Respondents wished an Order to be granted, the reasons for non payment of rent in this case were not directly relevant;
11. In those circumstances, the Tribunal had no alternative but to grant the Order which was required by all parties.

## **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 12 of Schedule 3 to the Act

Order not to be executed prior to 12 noon on 12 July 2021

### **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