



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

Chamber Ref: FTS/HPC/EV/23/4021

Re: Property at 3 Heriot Street, Inverkeithing, KY11 1ND (“the Property”)

Parties:

Miss Magdalena Jednorowicz, 104 Relugas Road, Edinburgh, EH9 2LZ (“the Applicant”)

Mr Symon Shaughn Butler, 3 Heriot Street, Inverkeithing, KY11 1ND (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Sandra Brydon (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 Applicant let the Property to the Respondent. The start date of the lease was 1st July 2018.
2. The rent payable is £460.00 per calendar month, payable monthly and in advance.
3. The Respondent fell into arrears of rent. On various occasions throughout the lease the rent has been in arrears. Most recently, however, no rental payments have been received since 1st August 2023.
4. The Applicant wishes to sell the Property as it is no longer financially viable for her to retain it.

5. A notice to leave was served upon the Respondent advising the Applicant wished vacant possession as she wished to sell the Property.
6. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.
7. On 12th November 2023 the Applicant presented two separate applications to the Tribunal, one seeking an order for eviction (EV/23/4021) and one seeking an order for payment of rent arrears (CV/23/4023).

THE CASE MANAGEMENT DISCUSSION

8. The Applicant participated in the case management discussion. The Respondent did not. 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;

Rent Arrears

9. The Applicant advised the Tribunal that the rent remained in arrears and no further payments have been received. When the application was presented arrears amounted to £1,840.00. Since she presented her application to the Tribunal, the arrears have increased by a further £1,840.00. The Applicant initially indicated she would wish to change the amount claimed to £3,680.00 but, considering she had not intimated any proposed variation in advance of the Case Management Discussion, the Applicant thereafter withdrew her application to vary the amount claimed.
10. In the absence of any appearance by the Respondent, and, consequently, in the absence of any challenge to the rent arrears claimed, The tribunal granted an order for payment in the sum of £1,840.00.
11. The Applicant is aware that, if so advised, she may present a further application in due course for any further arrears she claims to be due.

Eviction

12. In relation to the application for eviction, the Applicant confirmed that it is her intention to sell the Property. It is no longer financially viable for her to retain it. The Applicant had produced to the Tribunal an agreement she had entered into with a bona fide estate agent to market the Property for sale once vacant possession is obtained.

13. The Tribunal made enquiry of the Applicant in relation to the circumstances of the Respondent. She advised that she has had little contact with him for some time. She advised that, having spoke to neighbours in the locality, they have not heard from him. A fence at the Property had blown down previously. That was reported to her by neighbour. Given the fact neighbours had advised they had not heard from the Respondent, the Applicant requested Police Scotland to attend at the property to conduct a welfare check. She understands they did so. She has subsequently asked them to conduct further welfare checks but police Scotland have declined to do so.
14. When the Respondent first moved into the Property the Applicant is aware that he had children who lived elsewhere in the village. He does not, however, have any family residing at the Property. She is aware that he was born in 1978 and, therefore, is 45 or 46 years of age. Beyond that, however, she has no further information in relation to him. He has failed to engage with her in relation to issues arising in connection with the tenancy.
15. In the circumstances, given the level of rent arrears, which have not been disputed, and given the lack of engagement by the Respondent with the Applicant and given the absence of any opposition to the application before the Tribunal, the tribunal considered it reasonable to grant an order for eviction.

FINDINGS IN FACT

16. The tribunal found the following facts to be established: -
 - a) The Applicant let the Property to the Respondent. The start date of the lease was 1st July 2018.
 - b) The rent payable is £460.00 per calendar month, payable monthly and in advance.
 - c) The Resopondent fell into arrears of rent. No rental payments have been made since 1st August 2023. As at the date of the application to the Tribunal, arrers of rent amounted to £1,840.00. As at the date of the Case Management Discussion arrears of rent amounted to £3,680.00.
 - d) The Applicant wishes to sell the Property.
 - e) A notice to leave was served upon the Respondent advising the Applicant wished vacant possession as she wished to sell the Property.
 - f) A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.

DECISION

The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property

Order not to be executed prior to 12 noon on 22 April 2024

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

15 March 2024

Date