



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

Chamber Ref: FTS/HPC/EV/22/1804

Re: Property at 77 Pegasus Avenue, Carlisle, ML8 5TY (“the Property”)

Parties:

MYHUISE LTD, 33A Milton Road, Hampton, Middlesex, TW12 2LL (“the Applicant”)

Mr Ian Turner, 77 Pegasus Avenue, Carlisle, ML8 5TY (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Elaine Munroe (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 29 May 2019 Applicant let the Property to the Respondent;
2. A Notice to Leave dated 16 November 2021 was served upon the Respondent on the basis that the Applicant wished vacant possession of the Property as the Applicant intended to sell the Property. This notice intimated that an application to the Tribunal would not be made before 20 May 2022;
3. A Notice in terms of the s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority;
4. The Applicant provided correspondence from a property group confirming that they had been instructed to sell the property once vacant possession had been obtained;

5. On 9 June 2022 the Applicant presented an Application to the Tribunal seeking an Order for eviction of the Respondent;

THE CASE MANAGEMENT DISCUSSION

6. The Applicant was represented at the Case Management Discussion by Colette Lloyd of Independent Estates, Wishaw. The Respondent did not participate in the Case Management Discussion;
7. 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;
8. The Tribunal noted that the legal requirements required for an eviction to be granted had been complied with, but the Tribunal still required to consider whether or not it was reasonable for an order for eviction to be granted;
9. Having made enquiry, the Tribunal was advised that, to the best of the knowledge and belief of the Applicant,
 - the Respondent was a single gentleman in his 30’s.
 - the Applicant was not aware of any vulnerabilities on the part of the Respondent.
 - the Applicant, via its agents, had attempted to engage with the Respondent in relation to his removal from the property.
 - They had attempted contact by telephone and email, requesting a response but without success.
 - A Mr S Sneddon from Independent Estates attended at the Property to speak to the Respondent.
 - He was advised by the Respondent that he would not allow him access to the property.
 - He was advised by the Respondent that the Respondent intended removing himself from the property although it is not known whether that as yet happened.

In the circumstances, the Applicants agents are of the view that they had done everything they could to engage with the Respondent with a view to resolving the matter;

10. Miss Llyod advised that, quite aside from the Applicant’s desire to sell the Property, there were significant rent arrears. The Respondent had stopped paying rent during the Covid lockdown. Rent was payable at £285 per month. As at the date of the Case Management Discussion, arrears amounted to £6,840. The Applicant has not presented an Application for a

Payment Order at present although the decision not to have done so appears to have been taken on practical grounds at this stage;

FINDINGS IN FACT

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

- a) By lease dated 29 May 2019 Applicant let the Property to the Respondent;
- b) A Notice to Leave dated 16 November 2021 was served upon the Respondent on the basis that the Applicant wished vacant possession of the Property as the Applicant intended to sell the Property. This notice intimated that an application to the Tribunal would not be made before 20 May 2022;
- c) A Notice in terms of the s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority;
- d) A property group confirming that they had been instructed to sell the property once vacant possession had been obtained;
- e) On 9 June 2022 the Applicant presented an Application to the Tribunal seeking an Order for eviction of the Respondent;
- f) The Respondent has failed to engage with the Applicant's agents and did not participate in the Tribunal proceedings;
- g) It is reasonable that an order for eviction be granted;

REASONS FOR DECISION

12. As indicated above, the legal requirements to enable an eviction Order to be granted had been met in that a Notice to Leave had been served, the requisite notice period had expired and proof had been provided of the intention to sell;

13. In relation to the matter of reasonableness, there was no information before the Tribunal to suggest that the grant of an eviction order would be unreasonable. Indeed, the contrary would appear to be the case. From the information available,

- the Respondent is a single male
- he is not elderly
- there are no known vulnerabilities.
- there are significant arrears of rent
- the Respondent is wilfully refusing to engage with the Applicant's agents.

In the circumstances, the Tribunal considered that it was reasonable for an Order of eviction to be granted.

DECISION

The Tribunal grants order to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings forth and from the Property at 77 Pegasus Avenue, Carlisle, ML8

5TY and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

Order not to be executed prior to 12 noon on 14th November 2022

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.

V Crawford

7th October 2022

Legal Member/Chair

Date