

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 1914**

Chamber Ref: FTS/HPC/EV/19/1382

**Re: Property at 2 Walton Road, Bucksburn, Aberdeen, AB21 9TX (“the
Property”)**

Parties:

**University Court of the University of Aberdeen, King's College, Aberdeen,
AB24 3FX (“the Applicant”)**

**Miss Nicola McLaughlin, 2 Walton Road, Bucksburn, Aberdeen, AB21 9TX
 (“the Respondent”)**

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for possession of the Property should be
granted.**

Background

The Applicant sought an order for possession of the Property under section 18(1) of the Housing (Scotland) Act 1988 (“the Act”) citing Grounds 8, 9 and 11 of Part II of Schedule 5 of the Act. Parties had entered into a Short Assured Tenancy in respect of the Property on 1st Jun 2017. The monthly rent was £550. An AT6 Notice, as required by section 19 of the Act, was served upon the Respondent on 23rd November 2018. The arrears of rent at the time of serving the Notice were £2,950. The rent statement lodged with the application dated 7th May 2019 showed that the Respondent was in arrears of rent in the sum of £5000. Notification of the Case Management Discussion together with all the relevant documentation was served upon the Respondent by Sheriff Officers instructed by the Housing and Property Chamber on 4th June 2019. The Respondent made no written representations to the Tribunal.

Case Management Discussion

There was a Case Management Discussion at the Credo Centre, 14-16 John Street, Aberdeen on 4th July 2019. The Applicant was represented by Mr Angus Donaldson, Director of Estates and Facilities. The Respondent was not present or represented. The Tribunal was satisfied that the Respondent was aware of the Case Management Discussion in terms of Rule 24(1) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended ("the Rules"). Accordingly, the Tribunal considered it appropriate to proceed with the Case Management Discussion in terms of Rule 29.

Mr Donaldson said that the Respondent was in arrears of rent in the sum of £4,600. Two payments of £200 each had been made towards the rent account since the application was lodged. The Respondent had been given many opportunities in the past with several payment plans that were not adhered to, and many broken promises of payment by the Respondent. The only contact of which he was aware was an email from the Respondent the previous day mentioning damage to her car due to a faulty gate.

Mr Donaldson confirmed that the Respondent was in arrears of more than three months' rent at the time of serving the AT6 Notice and at the date of the Case Management Discussion.

Responding to questions from the Tribunal regarding whether the Respondent was on a relevant benefit, and whether delay in payment of any such benefit may have caused or contributed towards the arrears, Mr Donaldson said he was not aware that this was the case. He acknowledged there was mention of Housing Benefit in historical emails lodged with the application, but he was not aware of the current situation.

Findings in Fact

1. Parties entered into a Short Assured Tenancy in respect of the Property on 1st Jun 2017.
2. The monthly rent was £550.
3. An AT6 Notice, as required by section 19 of the Act, was served upon the Respondent on 23rd November 2018.
4. The arrears of rent at the time of serving the Notice were £2,950.
5. The AT6 Notice had been served correctly and was in force at the time of lodging the application.
6. The Respondent was in arrears of rent in the sum of £5,000 at the date of lodging the application on 7th May 2019.
7. The Respondent was in arrears of rent in the sum of £4,600 at the date of the Case Management Discussion.
8. The rent lawfully due both at the date of serving the AT6 Notice and at the date of the Case Management Discussion amounted to more than three months' rent.

Reasons for Decision

The Tribunal was satisfied that more than three months' rent was lawfully due at the date of serving the AT6 Notice and at the date of the Case Management Discussion. The terms of the tenancy agreement made provision for the tenancy to be brought to an end on Ground 8. Accordingly, the Tribunal found that Ground 8 was established. There was no evidence before the Tribunal that the rent was in arrears due to a delay or failure in the payment of a relevant benefit, as set out in section 18(3A)(b) of the Act. Accordingly, the Tribunal had no option but to grant the order sought, in terms of section 18(3) of the Act.

Decision

The Tribunal grants an order for possession of the Property in favour of 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.

Helen Forbes

Legal Member/Chair

Helen Forbes

Date