

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 18 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/19/2367

Re: Property at 62 Ardmay Crescent, Glasgow, G44 4PR (“the Property”)

Parties:

ISES Properties Limited, 18 North Street, Glenrothes, KY7 5NA (“the Applicant”)

Ms Annie Craig, 62 Ardmay Crescent, Glasgow, G44 4PR (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a Hearing and made an Order for Possession of the Property.

Background

By application, received by the Tribunal on 29 July 2019, the Applicant sought an Order for Possession of the Property under Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Grounds for Possession relied on were Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act.

The application was accompanied by copies of a Short Assured Tenancy Agreement between the then owners of the Property and the Respondent, commencing on 1 September 2016, at a monthly rent of £485, a Form AT6 Notice given under Section 19 of the 1988 Act, dated 10 July 2019, advising the Respondent of the Intention to Raise Proceedings for Possession and advising that proceedings would not be raised before 27 July 2019, evidence of service of the Form At6 Notice by sheriff officer on 10 July 2019 and a Statement of Rent showing arrears as at 1 July 2019 of £3,465.83.

On 15 August 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written

representations by 25 September 2019. The Respondent did not make any written representations.

Case Management Discussion

A Case Management Discussion was held at Glasgow Tribunals Centre on the afternoon of 25 September 2019. The Applicant was represented by Ms Kirsty Morrison of TC Young solicitors, Glasgow. The Respondent was also present. Ms Morrison told the Tribunal that her instructions were to seek the Order for Possession without a Hearing. The arrears now stood at £3,935.83.

The Respondent told the Tribunal that she had been endeavouring to make payments of £125 per week. She was due to undergo major surgery on 17 October 2019, which would have a lengthy recovery period. She had arranged to obtain legal advice next week and had an appointment with a benefits officer. She hoped to be awarded Housing Benefit to cover the ongoing rent, leaving her able to continue to reduce the arrears at £125 per week. She suggested that the action had been raised against her because she had raised issues about the condition of the Property, but she accepted that the Tribunal had no option but to make an Order for Possession if the Applicant insisted upon it.

Ms Morrison asked for a short adjournment in order to take instructions and, on the resumption, advised the Tribunal that, whilst the Applicant had great sympathy with the Respondent with regard to her health and personal circumstances, the instructions to Ms Morrison were unchanged, because of the persistence of the arrears.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would determine the application without a Hearing.

Section 18 of the 1988 Act states that the Tribunal shall not make an Order for Possession of a house let on an Assured Tenancy except on one or more of the Grounds set out in Schedule 5 to the Act and, if the Tribunal is satisfied that any of the Grounds in Part I of Schedule 5 is established, then it shall make an Order for Possession.

Ground 8 of Part I of Schedule 5 to the 1988 Act applies where both at the date of service of the Form AT6 Notice under Section 19 of the Act and at the date of the hearing, at least three months' rent lawfully due from the tenant is in arrears.

The Tribunal was satisfied that the rent had been in arrears by at least three months on both the date of service of the Form AT6 (10 July 2019) and the date of the Case Management Discussion. Accordingly, the Tribunal was bound to make an Order for possession of the Property.

As the Tribunal had made an Order under Ground 8 of Schedule 5 to the 1988 Act, it was not necessary to consider the application further under Grounds 11 or 12.

Decision

The Tribunal determined that the application should be granted without a Hearing and made an Order for Possession of the Property.

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

25 September 2019

Date