



**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 (“the Act”) and Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)**

**Chamber Ref: FTS/HPC/EV/19/3037**

**Re: Property at Flat 132, Cadzow Street, Hamilton, ML3 6HP (“the Property”)**

**Parties:**

**Picture Living Investments LP, C/O Touchstone, 2 Crescent Office Park, Clarks Way, Bath, BA2 2AF (“the Applicant”)**

**Ms Catherine Queen, Flat 132, Cadzow Street, Hamilton, ML3 6HP (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (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 recovery of possession of the property be granted.**

**Background**

1. By application received on 27 September 2019, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Section 18 of the Housing (Scotland) Act 1988 against the Respondent. The application stated that the Respondent owed the sum of £1,035 in respect of unpaid rent for the property and sought possession on Grounds 11 and 12 of Schedule 5 to the Act. Copies of the lease; AT5; AT6, Notice to Quit, Section 33 Notice and Execution of Service by Sheriff Officer; statement of rent account; and Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 were submitted in support of the application.

2. On 14 October 2019, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. On 24 October 2019, a copy of the application and supporting documentation was served on the Respondent by Sheriff Officer at the property address. Both parties were notified of the date, time and location of the Case Management Discussion ("CMD") and notified that any written representations in respect of the application should be submitted to the Tribunal by 13 November 2019. No written representations were received from the Respondent.
4. On 19 November 2019, the Applicant's representative emailed the Tribunal with an updated statement of rent account and advised that the rent arrears had now increased to £2,005.

### **Case Management Discussion**

5. The application called before the Legal Member of the Tribunal for a CMD on 25 November 2019 at 2pm at Glasgow Tribunal Centre. Ms Nicola Caldwell from TC Young solicitors attended as local agent for the Applicant's representative, Patten & Prentice LLP. The Legal Member delayed the commencement of the CMD for a few minutes to allow for late arrival by the Respondent but she did not attend.
6. Ms Caldwell addressed the application and answered questions from the Legal Member. She confirmed that the Applicant is proprietor of the property which is leased to the Respondent. The lease which is an assured tenancy commenced on 28 July 2019 and the rental payment was £465 per calendar month. She advised that there has been a pattern of arrears throughout the tenancy and that the amount owing in terms of the application was £1,035 which has now risen to £2,005. She confirmed that there are no benefits in payment to the Respondent, as far as the Applicant's representative is aware, and that the Respondent is a 50 year old female with no dependants. No further payments have been received from the Respondent to reduce the rent arrears since the last payments showing on the statement of rent account. Ms Caldwell advised that an AT6 in terms of Section 19 of the Act, was served on the Respondent by Sheriff Officer on 26 August 2019, stipulating that proceedings for possession would not be commenced before 10 September 2019 and these Tribunal proceedings were raised after that date. Ms Caldwell moved for an order for possession to be granted in terms of Section 18 of the Act.
7. The Legal Member raised the issue that the application had been brought in the name of Picture Living Investments LP but that the title to the property appears to be registered in the name of Places for People Homes Ltd and the lease also specified Places for People Homes Ltd as the landlord. Ms Caldwell sought a short adjournment in order to take instructions from the Applicant's representative in respect of this matter and this was granted.

8. Following a short adjournment, the CMD resumed. Ms Caldwell explained that the Applicant had bought over a large portfolio of properties from Places for People Homes Ltd and had owned the property since 15 June 2018. The land registration process is still ongoing in this regard and this is why the registered proprietor is still showing as the previous proprietor.

## **Findings in Fact**

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9. The Applicant is the landlord of the property.
10. The property was leased to the Respondent by virtue of an assured tenancy which commenced on 28 July 2017.
11. The Respondent still occupies the property.
12. The rent in terms of the lease was £465 per calendar month which the Applicant has sought to increase during the lease to £475 per calendar month and, as from 1 September 2019, to £485 per calendar month.
13. There has been a pattern of rent arrears occurring throughout the tenancy and the last rental payment made by the Respondent was on 7 June 2019.
14. The lease specifies Grounds 11 and 12 as grounds for the tenancy to be brought to an end.
15. An AT6 dated 26 August 2019, specifying Grounds 11 and 12 of Schedule 5 to the Act, was served on the Respondent by way of Sheriff Officer on that date, at which point the rental arrears owing were £1,050.
16. The Tribunal Application was submitted on 27 September 2019, at which time the rent arrears amounted to £1,035.
17. The Respondent has been called upon to make payment of the rent arrears but has failed to do so.

## **Reasons for Decision**

18. The Respondent did not submit any written representations to the Tribunal and did not attend the CMD, having been properly and timeously notified of same. There was accordingly no issue taken and no contradictory evidence put forward in respect of the application by the Respondent.
19. The Legal Member was satisfied that Grounds 11 and 12 of Schedule 5 to the Act are specified in Clause 8 of the lease as grounds for it being brought to an end; that the AT6 was in correct form, specified Grounds 11 and 12 as the grounds for recovery, was served timeously and giving the requisite minimum period of notice of 2 weeks applicable to these grounds of recovery; and that these Tribunal proceedings were thereafter brought after the effective date

specified in the AT6. Accordingly, the requirements of Section 19 of the Act had been met.

20. The Legal Member was also satisfied from the information contained in the application and supporting documentation, together with the oral submissions made by the Applicant's agent at the CMD that Grounds 11 and 12 of Schedule 5 to the Act had meet met, in that the Respondent had persistently delayed paying rent (Ground 11) and that some rent was unpaid at the start of the Tribunal proceedings and at the time the Respondent was served with the notice of intention to take proceedings (Ground 12). The Legal Member was also satisfied that it was reasonable, having regard to the above and to the circumstances of the case, to grant an order for possession of the property on these grounds in terms of Section 18 of the Act. The Legal Member had no material before her to suggest that any delay or failure to pay rent by the Respondent was as a consequence of delay or failure in the payment of Housing Benefit or Universal Credit.

21. The Legal Member therefore concluded that the application does not require to go to an evidential hearing and that an order could be made at the CMD in terms of Rule 18 of the Regulations for recovery of possession of the property.

### **Decision**

22. The Legal Member accordingly determines that an order for possession of the property should be granted.

### **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.**

Nicola Weir

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**Legal Member/Chair**

*26 November 2019*

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**Date**