



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 18 (1) of the Housing
(Scotland) Act 1988**

Chamber Ref: FTS/HPC/EV/19/3097

Re: Property at 81 Merryvale Road, Irvine, KA12 8ET (“the Property”)

Parties:

Mrs Anna Field, 28 Kneller Road, New Malden, Surrey, KT3 5NE (“the Applicant”)

Ms Linda Ward, 81 Merryvale Road, Irvine, KA12 8ET (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the possession of the property and the ejection of the Respondent from the property.

Background

1. By application dated 27 September 2019 the Applicant’s representatives Clarity Simplicity Limited, Solicitors, Glasgow applied to the Tribunal for an order for the possession of the property and the ejection of the Respondent from the property as a result of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant’s representatives submitted to the Tribunal a copy of the Tenancy agreement, a rental statement and copy bank statement, Notice to Quit with Sheriff Officer’s execution of Service, At6 with Sheriff Officers Execution of Service and Section 11 notice and letter. in support of the application.
2. By Notice of Acceptance dated 23 October 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.

3. Intimation of the Case Management Discussion was given to the Applicant's representatives by post on 6 November 2019 and to the Respondent by Sheriff Officers on 8 November 2019.
4. The Applicant's representatives submitted an application to amend the sum claimed to the Tribunal by email dated 2 December 2019.

The Case Management Discussion

5. A Case Management Discussion was held at Glasgow Tribunals Centre on 9 December 2019. The Applicant did not attend but was represented by Ms Lauren Dalgliesh of the Applicant's representatives. The Respondent did not attend and was not represented. The Tribunal being satisfied that proper intimation of the Case Management Discussion had been given to the Respondent proceeded in her absence in accordance with Rule 29 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Rules").
6. Miss Dalgliesh referred the Tribunal to the documents submitted in support of the application and submitted that the Notice to Quit served on 7 May 2019 giving the respondent two months' notice had the effect of terminating the contractual tenancy and creating a statutory assured tenancy. The AT6 intimated the grounds on which possession was being sought under Schedule 5 of the Housing (Scotland) Act 1988. Miss Dalgliesh confirmed that at the time the AT6 was served on 12 August 2019 more than three months' rent was due by the Respondent and as at the date of the Case Management Discussion further rent arrears had accrued with the current amount now due being £4178.92.
7. Ms Dalgliesh submitted that the terms of Ground 12 of Schedule 5 of the 1988 Act having been met and it being a mandatory ground for possession the order should be granted.

Findings in Fact

8. The Parties entered into a tenancy agreement for the lease of the property at a rent of £375.00 per month.
9. The Respondent accrued rent arrears amounting to £3428.92 as at 24 September 2019.
10. The Respondent has made no further payments of rent.
11. The Applicant's representatives served a Notice to Quit on the Respondent by Sheriff Officers on 7 May 2019.

12. The Applicant's representatives served an AT6 on the Respondent by Sheriff Officers on 12 August 2019. At that time the Respondent had accrued more than three months' rent arrears.
13. The Applicant's representatives served a Section 11 Notice on the Local Authority, North Ayrshire Council on 12 September 2019.
14. The Respondent had accrued rent arrears of £4178.92 as at the date of the Case Management Discussion.

Reasons for Decision

15. The Tribunal was satisfied that the parties entered into a tenancy agreement for the lease of the property to the Respondent at a rent of £375.00 per calendar month.
16. The Tribunal was satisfied that as at the date of service of the Form AT6 the Respondent had accrued more than three months arrears of rent.
17. The Tribunal was satisfied the Notice to Quit and Form AT6 were properly served.
18. The Tribunal was satisfied that proper intimation of the proceedings had been given to the Local Authority by way of a Section 11 Notice.
19. The Tribunal was satisfied that as at the date of the Case Management Discussion more than three months' rent remained outstanding and due by the Respondent and therefore the terms of Ground 8 of Schedule 5 of the Housing (Scotland) Act 1988 were satisfied. As that was a mandatory ground for granting possession and the ejection of the respondent it was not necessary for the Tribunal to consider the other grounds for possession contained in the application.

Decision

20. **The tribunal having considered the documents lodged and submissions made on behalf of the Applicant finds the Applicant entitled to an order for the possession of the property and the ejection of the Respondent from the property, the terms of Ground 12 of Schedule 5 of the Housing (Scotland) Act having been satisfied.**

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.

Graham Harding

Legal Member/Chair

9 December 2019

Date