



**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/19/3306

**Re: Property at 1E Alford Place, Linwood, Renfrewshire, PA3 3SJ (“the
Property”)**

Parties:

**Mr David McGuire, 1 Dunvegan Place, Stewartfield, East Kilbride, Glasgow,
G74 4DH (“the Applicant”)**

**Miss Donna Gilmour, 1E Alford Place, Linwood, Renfrewshire, PA3 3SJ (“the
Respondent”)**

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

**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 15 October 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 relied on were Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act.

The application was accompanied by a copy of a Short Assured Tenancy between the Parties commencing on 1 March 2011 at a rent of £450 per month, a Rent Statement showing arrears as at 1 September 2019 of £1,701.16 and a Form AT6 Notice, given under Section 19 of the 1988 Act, dated 13 September 2019, advising the Respondent that proceedings would not be raised before 4 October 2019 and that the Applicant was seeking to recover possession under Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act. The Applicant also provided proof of service of the Form AT6 notice by sheriff officer on 16 September 2019. The tenancy agreement provided that if it was not terminated on 31 August 2011, it continued to run on a

monthly basis until terminated by the Respondent giving at least one month's notice. In the application, the Applicant explained that the rent had been constantly in arrears since 1 October 2015. The arrears had been £1,701.16 at the date of service of the Form AT6 Notice, but since then, a final payment of Housing Benefit (£739.80) had been paid to the Applicant, but a further rent payment of £450 had fallen due on 1 October 2109, so the balance was now £1,411.36.

On 15 November 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 6 December 2019. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street Glasgow, on the morning of 18 December 2019. The Applicant was present but the Respondent was not present or represented. The Applicant advised the Tribunal that no payments had been received since the date of the application and the arrears now stood at £2,311.36. He understood that the Respondent was in receipt of Universal Credit, which was paid directly to her, but she had made no rent payments to the Applicant from her Universal Credit. He asked the Tribunal to decide the application without a Hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states 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 could decide the application without a Hearing.

Section 18 of the 1988 Act provides that if the Tribunal is satisfied that any of the Grounds in Part I of Schedule 5 to the Act is established then it shall make an Order for Possession, subject to the caveat that an Order shall not be made in respect of an assured tenancy, not being a statutory assured tenancy, unless the Ground for Possession is Ground 2 or Ground 8 in Part I of Schedule 5 to the 1988 Act or any of the Grounds in Part II of that Schedule, other than Grounds 9, 10 or 17. The present application is under Ground 8, which is in Part I of the Schedule and Grounds 11 and 12 of Part II of the Schedule, so the caveat does not apply.

Ground 8 of Schedule 5 to the 1988 Act applies where both at the date of the service of the Notice under Section 19 of the Act (the Form AT6 Notice) 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 arrears at both relevant dates exceeded three months' rent and that the tenancy was not a statutory assured tenancy, as no Notice to Quit had been served. Accordingly, the requirements of Section 18 and Ground 8 of Schedule 5 to the 1988 Act had been met and the Tribunal was bound to make an Order for Possession of the Property.

As the Tribunal had determined the application under Ground 8 of Schedule 5 to the 1988 Act, which is a mandatory Ground, it was not necessary for the Tribunal to consider further the application under Ground 11 and 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

18 December 2019

Date