

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 (hereinafter referred to as “the 1988 Act”) for Recovery of Possession of a Short Assured Tenancy

Chamber Ref: FTS/HPC/GP/19/3414

Re: Property at 6C Hawthorn Drive, Coatbridge, ML5 4RG (“the Property”)

Parties:

AMPG Ltd T/A Ahuja Holdings, U1, South Fens Business Centre, Fenton Way, Chatteris, PE16 6TT (“the Applicant”)

Krzysztof Szapiel, 6C Hawthorn Drive, Coatbridge, ML5 4RG (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application for Recovery of Possession on termination of a short assured tenancy under Section 18 of the Housing (Scotland) Act 1988. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant was represented by Richard Matthews, RJM Property Services Ltd, U1, South Fens Business Centre, Fenton Way, Chatteris, PE16 6TT

The Respondent did not attend the Tribunal or provide written representations

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order against the Respondent for possession of the Property under section 18 of the Housing (Scotland) Act 1988.

Preliminary Matters

Mr Matthews advised he acts for the Applicant in respect to managing around 20 properties for them and has done for on or around 6 years. Mr Matthews confirmed the last contact he had with the Respondent was in September 2019. This was when the last payment to the rent of £100 was made.

Case Management Discussion

Mr Matthews confirmed that the Applicant sought an Order for Possession under section 18(1) of the 1988 Act, based on Grounds 8 of Schedule 5 of this Act. In support of same he referred to the fact that more than 3 months rent arrears were due both at the date of service and at today's hearing, the rent arrears having continued to increase since the date of service. The AT6 and execution of service having been carried out timeously and contained within the Application. Mr Matthews confirmed her sought that the Tribunal grant the Order on the basis that Ground 8 was established leaving the Tribunal in her submission no discretion. The rent due amounted to as at November 2019 in the rent statement referred to by Mr Matthews as £4087. Rent payable per month is £349. Following recent enquires Mr Matthews considered the Respondent was still residing in the property. Mr Matthew's knowledge was that the Respondent was in full time work and had no entitlement to benefit.

It was confirmed that the Applicant sought an Order for Possession based on Ground 8, section 18(1) of the 1988 Act only. In support of same Mr Matthews referred to the fact that more than 3 months rent arrears were due both at the date of service and at today's hearing, the rent arrears having continued to increase since the date of service.

Reasons for Decision

1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondents had received notification of the proceedings and had not challenged same by written representations or attendance.
2. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.
3. The Tribunal was satisfied that the tenancy was in terms of Section 32(1) of the 1988 Act, a short assured tenancy for not less than 6 months and in relation to which a prescribed notice namely a valid AT5 had been served before creation of the short assured tenancy.
4. The Applicants were relying on Ground 8 under Schedule 5 of the 1988 Act only to make the Application.
5. In terms of Section 18 (3A) the Tribunal was satisfied that the respondents were in arrears of rent lawfully due of as at the date of the relevant and valid notice in August 2019 and at the date of the hearing and that these rent arrears comprised of more than 3 months rent.

6. The relevant AT6 notice was valid and had been served and received by the Respondent on the 22nd August 2019.
7. Notice to the Local Authority had been given.
8. A full Rent Statement for the property from 15th February 2015 to 24th October 2019 was lodged. Rent owed from same amounted to £4087 as at November 2019 and the Tribunal found this established that more than 3 months rent was in arrears both at the date on which the notice of intention to seek possession of the house was served and at the date of the hearing.
9. The Tribunal enquired as to the reasons for the non payment of rent and the reasons given were that the Respondent said he was experiencing financial difficulty.
10. Accordingly in terms of Section 18 of the 1988 Act the Tribunal granted an Order against the Respondent 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.

Karen Kirk

06/01/2020

Legal Member/Chair

Date