



**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/19/3530

Re: Property at 5A Caddlehill Street, Greenock, PA16 8TU (“the Property”)

Parties:

Mr Stephen Jamieson, 25 Macbeth Road, East Kilbride, G74 3NH (“the Applicant”)

Miss Michelle Hamil, 5A Caddlehill Street, Greenock, PA16 8TU (“the Respondent”)

Tribunal Members:

Andrew Cowan (Legal Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted

Background

By application dated 1st November 2019, the Applicant sought an order under section 18 of the Housing (Scotland) Act 1988 (“the Act”) and in terms of rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. On 16th December 2019 the application was accepted by the Tribunal and referred for determination by the Tribunal.

A Case Management Discussion was set to take place on 30th January 2020 and appropriate intimation of that hearing was given to both the Applicant and Respondent.

The Case Management Discussion

The Case Management Discussion (CMD) took place on 30th January 2020. The Applicant was represented at the CMD by Mr Campbell Gisbey, of Homefinders Ltd, who act as agents on behalf of the Applicant. The Respondent was also present at the hearing.

The Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.

The Tribunal asked various questions with regard to the application and the extent of the rent arrears owed by the Respondent. The Tribunal also clarified that a AT6 form which gave appropriate notice of the Applicants intention to raise this application had been given to the Respondent on 5th October 2019

The Applicant's agent confirmed that he wished the order sought to be granted.

The Respondent accepted that as at the date the AT6 Notice was served upon her, and as at the date of the CMD, she was in arrears of rent due in terms of her tenancy agreement by a sum in excess of 3 months' rent.

Findings in Fact

The Applicant and the Respondent as respectively the Landlord and the Tenant entered into a tenancy of the property on 31st July 2015.

The tenancy was a short assured tenancy in terms of the Act.

The Respondent was obliged to pay rent of £420 per month.

On 5th October 2019, the Applicant served upon the Respondent the notice of proceedings for possession required by section 19 of the Act. This notice was in the Form AT6 and set out the ground for eviction which the Respondent intended to rely upon.

The ground for eviction narrated in the Form AT6 was ground 8 being a ground contained within schedule 5 of the Act.

The ground requires there to be three months' rent arrears at the date of the service of the Form AT6 and at the date of the hearing.

As at the date of service of the AT6 upon the Tenant, arrears of rent had accrued in the sum of £3360 (which was in excess of 3 months' rent)

The Respondent had accrued arrears of rent in the sum of £3750 as at the date of the CMD (which was in excess of 3 months' rent)

The rent arrears accrued by the Respondent had not accrued as a consequence of a delay or failure in the payment of relevant housing benefit.

The ground for eviction was accordingly established.

Reason for Decision

The order for possession was sought by the Applicant based on a ground specified in the Act and properly narrated in the notice served upon the Respondent. The Tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the Applicant was entitled to seek recovery of possession based upon that ground and the relevant terms of the tenancy agreement which had been lodged with the application.

The Tribunal accepted the evidence of the Applicant with regard to the non-payment of rent by the Respondent. The Respondent accepted that she was in rent arrears to the extent claimed by the Applicant.

The ground relied upon the Applicant is a mandatory ground. In terms of section 18(3) of the Act, where the Tribunal is satisfied that the ground has been established, the Tribunal shall make an order for possession. The Tribunal accordingly granted the order sought.

Decision

The order for recovery of possession is 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.

Andrew Cowan

Legal Member/Chair

30th January 2020

Date