



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

Chamber Ref: FTS/HPC/EV/19/3582

Re: Property at 20D Knockhill Road, Renfrew, PA4 8EF (“the Property”)

Parties:

Mr John McCrae, 31 Kinloch Road, Renfrew, PA4 0RJ (“the Applicant”)

Ms Dawn Kerr, 20D Knockhill Road, Renfrew, PA4 8EF (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

- 1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the property at 20D Knockhill Road, Renfrew, PA4 8EF be made on the ground that the both at the date of service of the notice in terms of s19 of the Housing (Scotland) Act 1988, and as at today’s date, at least three months rent lawfully due from the respondent is in arrears, and the arrears are not due to a delay or failure in payment of a relevant benefit.**
- 2. This is the second case management discussion ‘CMD’ regarding an application in terms of rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ and s18 of the Housing (Scotland) Act 1988, ‘the Act’. The first CMD on 30 January 2020 was adjourned to enable the applicant’s trainee solicitor to lodge an up to date rent statement and clarify the position regarding housing benefit.**
- 3. The applicant was represented today by Mr Chisholm trainee solicitor. The respondent did not attend and was not represented. At the first CMD the tribunal had sight of the sheriff officer’s execution of the application and CMD details on the respondent. Today the tribunal has had sight of the recorded delivery letter sent to the respondent by the tribunal on 12 February 2020 giving a copy of the CMD note**

and direction and notifying her of the adjourned CMD today. There have been no returns to the tribunal. The tribunal was satisfied that the respondent has had notice in terms of rule 24 and proceeded with the CMD in terms of rule 29.

4. The tribunal had before it the following copy documents:

- (i) Application dated 5 November 2019 and received by the tribunal on 6 November 2019.
- (ii) Tenancy agreement.
- (iii) Notice to quit
- (iv) AT6.
- (v) Rent statement.
- (vi) Correspondence from Renfrewshire Council regarding housing benefit dated 10 February 2020.
- (vii) Bank statements.
- (viii) Email to the tribunal from applicant's solicitors dated 13 February 2020.

Discussion

5. Mr Chisholm was seeking an order for possession today. He has lodged a rent statement which gives details of the arrears of rent both as at the date of the AT6 and as at February 2020. The arrears are still outstanding. He has also lodged details of the housing benefits payments paid either to the respondent or the applicant since the commencement of the tenancy. These confirm that there has been no delay or failure in housing benefit. The tribunal noted that the rent statement has a lower amount of arrears than those in the AT6. Mr Chisholm made the point that the AT6 contains the gross amount of rent before the housing benefit payments have been taken in to account. Nevertheless it was his position that both as at the AT6 and as today's date there are rent arrears in excess of three months' rent.

6. Findings in fact

- The applicant is the owner of the property.
- The parties entered into a tenancy agreement on 15 September 2015 for let of the property for 12 months from 15 September 2015 until 14 September 2016 with a rental payment of £450 per month.
- The lease continued by tacit relocation.
- Rent arrears began to accrue in August 2018.
- The respondent was served with a valid notice to quit dated 15 March 2019 with the ish date of 14 September 2019.
- The tenancy has reached it's ish and is a statutory assured tenancy.

- The respondent was served with a valid AT 6 dated 19 September 2019 on the basis of ground 8 of the Act.
- At the date of service of the AT6 there were rent arrears in excess of 3 months for the property.
- As at today's date there are rent arrears of £3892.74 which is in excess of three months' rent for the property.
- The rent arrears are not due to a delay or failure in a relevant benefit. There are rent arrears for the property

7. Reasons

This was an undefended application in terms of rule 65. The ground is a mandatory ground and the tribunal was satisfied that the ground was met. There are arrears in excess of three months' rent both as at the date of the AT6 and as today's date. The tribunal adjourned the previous CMD to enable the applicant's representative to check the housing benefit position. The tribunal was also satisfied that the arrears were not due to a delay or failure in payment of a relevant benefit.

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.

Mrs Lesley A Ward

Lesley A Ward Legal Member

13 March 2020

Date