



**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/19/1615

Re: Property at 92 Inverkip Drive, Shotts, ML7 4DG (“the Property”)

Parties:

**Mr Adrian Taylor, Mr. Robert Taylor and Ms Hazel Taylor, all 10 Chesnut Grove,
Colsterworth, Grantham, NG33 5PE (“the Applicant”)**

Ms Carolanne McNally, 92 Inverkip Drive, Shotts, ML7 4DG (“the Respondent”)

Tribunal Members:

Yvonne McKenna (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

- By application, received by the Tribunal on 29th May 2019, the Applicant sought an Order for Possession under Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”)
- The Ground relied on was Ground 8 of Schedule 5 to the 1988 Act.
- The application was accompanied by a copy of the Short Assured Tenancy Agreement between the parties, commencing on 29th June 2015 at a rent of £495 per month, Form AT6 dated 10th May 2019, evidence of rent arrears, section 11 Notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 and proof of delivery of the AT6 by recorded delivery signed for by the Respondent on 11th May 2019.
- The evidence of rent arrears was a rent statement for the Property which stated that at the date of service of the AT6 that the Respondent was in arrears of rent of £2850.

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- The heritable proprietor of the Property in terms of the Title Deed is Adrian Taylor. In terms of a Declaration of Trust Robert Taylor and Hazel Taylor are entitled to receive the rents from the Property.
- The tenancy agreement was entered into by Mr. Robert Taylor as landlord and the Respondent as tenant.
- The case had called for a Case Management Discussion (CMD) on 24TH September 2019 when the case was continued to a new CMD in terms of Rule 28(1) of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the 2017 Regulations”) and a Direction was issued to the Applicant in the following terms;-
 1. The Applicants must lodge with the Tribunal written confirmation by Hazel Taylor confirming that she is happy to be added as an additional applicant.
 2. The Applicants must lodge with the Tribunal written representations, with case authority as appropriate, as to whether or not the AT6 is valid notwithstanding the fact that only Robert Taylor has been detailed as landlord on the AT6.
 3. An updated rent statement, including details of the deposit paid by the Tenant.
- At the date of the first CMD the Respondent did not attend and was not represented. The Respondent had been served with notice of the CMD by Sheriff Officers. The Applicant at the first CMD told the Tribunal that the Respondent was still resident in the Property.
- The Applicant sought to add Hazel Taylor as an additional applicant on 1st October 2019 and provided written authority to be represented in this case by Mr. Robert Taylor. The Applicant lodged written representations to the effect that the AT6 remains valid as the tenancy agreement narrates only Robert Taylor as the landlord. The other parties who have an interest in the Property in terms of the Declaration of Trust are not landlords and do not require to be listed on the AT6. The Applicant also stated that as at 28th September 2019 rent arrears amounted to £5325 and the last payment received by the Applicant was 6th February 2019.
- A further CMD was then scheduled for 30th October 2019. When Sheriff Officers attempted to effect service notice of this on the Respondent, they were unable to do so and reported to the Tribunal that the Property was empty and that a neighbouring resident advised that it had been empty for approximately 3 months. This CMD required to be cancelled in the circumstances.
- Proceedings continued by means of service by advertisement on the Chamber website. An execution of service was provided confirming that notice of the CMD dated 12th December 2019 was carried out on the Tribunal website between 11th November 2019 and 12th December 2019.

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Case Management Discussion 12th December 2019

A CMD was held at Glasgow Tribunals Centre, 20 York Street Glasgow on 12th December 2019 at 10am. The CMD required both parties to take part in a conference call.

The Applicant was not personally present. Mr. Robert Taylor participated by conference call. There was no appearance by the Respondent, and she was not represented. Mr. Taylor advised the Tribunal that no further payments had been received since the last CMD and the arrears now stood at £6315. He said that he has no knowledge of the Respondent's whereabouts and that she has not responded to his e-mails or telephone calls. He has received no notice from her that she has vacated the Property. The last contact he had with her was approximately 2 months ago. As far as he was aware there were no Housing Benefit issues giving rise to the arrears in rental payments due. When rent was paid it was a transfer from the Respondent's own bank account. He invited the Tribunal to grant the Order for Eviction.

Reasons for Decision

Rule 17 of the 2017 Regulations provides 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 would determine the application without a Hearing.

Section 18 of the 1988 Act states that the Tribunal shall not make an Order for Possession except on one or more of the Grounds set out in Schedule 5 to the Act and that the Tribunal shall make an Order for Possession if it is satisfied that any of the Grounds in Part 1 of Schedule 5 is established. Ground 8 of Part 1 of Schedule 5 to the 1988 Act applies where both at the date of service of the Notice required under Section 19 of the 1988 Act (the Form AT6 Notice) relating to the proceedings for possession 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 requirements of Ground 8 had been met, the rent having been more than three months in arrears both at the date of service of the Form AT6 Notice and at the date of the CMD. Accordingly, the Tribunal was bound to make an Order for Possession of the Property.

Decision

The Tribunal determined that the application should be decided without a further Hearing and made an Order for Possession of the Property.

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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.

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 **Yvonne McKenna**
Legal Member/Chair

12th December 2019
Date