

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) (“the Tribunal”) under Section 33 (1) of The Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/18/0398

Re: Property at 24 North Bridge Street, Hawick, TD9 9QW (“the Property”)

Parties:

Blind Veterans UK, 12 - 14 Harcourt Street, London, W1H 4HD (“the Applicant”)

Mr Kenneth Piggot, 24 North Bridge Street, Hawick, TD9 9QW (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision in absence of the Respondent

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

The application of the Applicant for recovery of possession of the Property be granted in terms of Section 18 of The Housing (Scotland) Act 1988 and that an appropriate order be made.

Background

The Respondent is a tenant of the Applicant in respect of the Property in terms of a Lease which commenced on 3rd May 1999. The Applicant lodged an application with the Tribunal seeking recovery of possession of the Property because the Respondent had fallen into arrears with payment of rent and this application was received by the Tribunal on 15th February 2018. The Applicant is seeking recovery of possession under Ground 8, Schedule 5, Part I of the Housing (Scotland) Act 1988.

The Hearing

The Respondent did not attend. Mr David Alexander, an employee of the Applicant, attended and provided oral evidence. Mr Alexander is the regional estates surveyor of the Applicant. The Hearing had before it a valid Certification of Intimation of the Hearing which had been served on the Respondent by Sheriff Officer on 16th May 2018.

Findings in Fact

1. The Applicant is the landlord of the Respondent.
2. The current monthly rent due by the Applicant is £400.
3. On 9th February 2018 the Respondent was in arrears of rent amounting to £2000.
4. At the date of the Hearing the Respondent was in arrears of rent amounting to £3,600.
5. The short assured tenancy in respect of the Property has reached its ish.
6. Tacit relocation is not operating.
7. No further contractual tenancy is for the time being in existence.
8. The Applicant has given notice to the Respondent that it requires possession of the house

Reasons for Decision

9. The Hearing had a copy of the lease between the Applicant and the Respondent which is dated 3rd May 1999.
10. The Hearing had before it a rent statement produced by the Applicant showing a balance of rent due amounting to £2,000. This was submitted with the application and exceeded three months arrears of rent.
11. Mr Alexander gave evidence that the arrears as at the date of the Hearing amounted to £3,600. He produced an email to him which had been sent by the finance department of the Applicant and dated 18th June 2018 which stated that the level of arrears as at that date amounted to £3,600.
12. The Hearing had before it a copy of a Notice to Quit under Section 33 of the Housing (Scotland) Act 1988 and dated 24th January 2018 which had been served on the Respondent by the Applicant requiring him to remove himself from the Property on or before 31st March 2018.
13. Mr Alexander said that he had contacted the Respondent in January 2018 and discussed the level of arrears with him and invited him to put some kind of plan together to deal with matters. He said that the Respondent had told him that his earnings had dropped. Mr Alexander said that the Respondent subsequently wrote to the Applicant's office advising that he could not afford to pay the rent. Mr Alexander said that

the Respondent was in receipt of Housing Benefit and that he was not aware that there had been any issue with regard to payment of this.

14. The Tribunal considered the terms of the relevant legislation. The Applicant was seeking recovery of possession under Ground 8, Schedule 5, Part I of the Housing (Scotland) Act 1988 which states

“Both at the due date of the service of the notice under Section 19 of this Act relating to proceedings for possession and at the date of the hearing, at least three months rent lawfully due from the tenant is in arrears.”

15. The Tribunal accepted the evidence of Mr Alexander and the documentation before it. In terms of Section 18 (3) it is required to make an order for possession because it finds that Ground 8, Schedule 5, Part I is established.

Decision

The application of the Applicant for recovery of possession of the Property be granted in terms of Section 18 of The Housing (Scotland) Act 1988 and that an appropriate order be made.

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.

M McAllister

Martin J. McAllister
Legal Member/Chair

Date 19th June 2018