



**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/19/1049

Re: Property at 53 Polepark Road, Dundee, DD1 5QT (“the Property”)

Parties:

I & R Property Solutions, 300-302, Strathmore Avenue, Dundee, DD3 6RS (“the Applicant”)

Mr Mark Tait, 53 Polepark Road, Dundee, DD1 5QT (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for repossession against the Respondent

Background

- 1 By application dated 2nd April 2019 the Applicant sought an order for repossession against the Respondent.
- 2 In support of the application the Applicant provided copy Lease between the parties, Form AT6, Notice to Quit with proof of recorded delivery service, Section 11 Notice and Rent Statement.
- 3 By Notice of Acceptance of Application dated 23 July 2019 the Legal Member with delegated powers of the Chamber President intimated that there were no grounds for acceptance of the application. A Case Management Discussion was assigned for 9th September 2019.

- 4 The application paperwork with notification of the Case Management Discussion was served on the Respondent by Sheriff Officer on 2nd August 2019.

The Case Management Discussion

- 5 The Case Management Discussion took place on 9th September 2019. Mr Alec Campbell appeared on behalf of the Applicant. The Respondent did not attend.
- 6 Mr Campbell confirmed that no rent had been paid and that arrears had now increased to £6513. The Applicant therefore sought the order for repossession.

Reasons for Decision

- 7 The Legal Member was satisfied that she was able to make a decision at the Case Management Discussion and that to do so would not be contrary to the interests of the parties. The Respondent had received proper notification of the application and Case Management Discussion and had not taken the opportunity to challenge the terms of the application, either by way of written representations or attendance at the Case Management Discussion.
- 8 The Applicant sought an order under section 18 of the Housing (Scotland) Act 1988 and had served the Respondent with a Form AT6 notice of his intention to raise proceedings for possession under section 19 of the said Act. The Applicant relied upon grounds 8 and 11 of schedule 5 of the said Act in the Notice.
- 9 Ground 8 is a mandatory ground. If the Tribunal is satisfied that at least three months rent lawfully due is in arrears both at the date of service of the Form AT6 and the date of the Case Management Discussion it must grant an order for repossession, provided the arrears are not due to any failure to pay housing benefit or its equivalent.
- 10 The Tribunal accepted based on the Applicant's submissions that the rent due under the terms of the tenancy agreement between the parties was £450 per month and that at least three months rent was unpaid when the Form AT6 was served. The Tribunal noted that the Form AT6 was served on 1st March 2019, and that no rent had been paid since 1st August 2018.
- 11 The Tribunal further accepted based on the submissions of Mr Campbell at the Case Management Discussion that arrears in the sum of £6513 were now outstanding. There was no evidence before the Tribunal to suggest that the arrears of rent were due to any failure to pay housing benefit or its equivalent.
- 12 The Tribunal therefore found that the provisions of ground 8 had been met and determined to make an order for repossession. For the avoidance of doubt and by virtue of its findings in fact the Tribunal further accepted that the provisions of ground 11 had been met in that the Respondent has persistently delayed paying rent which has lawfully become due.

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.

R.O

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Date

9/9/19