



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/19/3149

Re: Property at 39 Stevenson Street, Grangemouth, FK3 8QZ (“the Property”)

Parties:

Mr Gurmit (known as Sonny) Kareer and Mrs Seema Kareer, 15 Ventnor Road South, Leicester, LE2 3RL (“the Applicant”)

Mr David Abram and Mrs Annabel Abram, 39 Stevenson Street, Grangemouth, FK3 8QZ (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property.

Background

By application, received by the Tribunal on 4 October 2019, the Applicant sought an Order for Possession under Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Grounds relied on were Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act.

The application was accompanied by a Rent Statement showing arrears as at 1 October 2019 of £3,731.40, the last payment having been received on 31 May 2019, and copies of a Notice to Quit and Form AT6 Notice given Section 19 of the 1988 Act, both Notices dated 3 July 2019. The Notice to Quit required the Respondent to vacate the Property by 25 September 2019 and the Form AT6 Notice advised the respondent that proceedings would not be raised before that date. The Applicant also provided proof of service of both Notices by sheriff officer on 4 July 2019. At the request of the Tribunal, the Applicant provided a copy of a signed Tenancy Agreement between the Parties, commencing on 25 September 2015 at a rent of £450 per month.

On 22 November 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 13 December 2019. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Wallace House, Maxwell Street, Stirling, on the afternoon of 6 January 2020. The Applicant was represented by Mr David Aiton of Sinclair Services, Kinross. The Respondent was not present or represented. The Applicant's representative advised that no rental payments had been received since the date of the application and asked the Tribunal to make an Order for Possession of the Property without a Hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations states 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 provides that the Tribunal shall not make an Order for Possession of a house let on an Assured Tenancy 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 satisfied that any of the Grounds in Part I of Schedule 5 to the Act is established and the landlord has served on the tenant a Notice required under Section 19 of the Act, informing the tenant that the landlord intends to raise proceedings for possession on one or more of the Grounds specified in the Notice. Ground 8 of Part I of Schedule 5 to the 1988 Act applies where, both at the date of service of the Notice required under Section 19 of the Act 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 Sections 18 and 19 and Ground 8 of Schedule 5 to the 1988 Act had been met. The rent had been more than three months in arrears both at the date of service of the Section 19 Notice (4 July 2019) and at the date of the Case Management Discussion. The Tribunal was, therefore, bound to make an Order for Possession of the Property.

Having determined the application under Ground 8 of Part I of Schedule 5 to the 1988 Act, it was not necessary for the Tribunal to consider further the application under Grounds 11 and 12 of Schedule 5.

Decision

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

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.

George Clark

Legal Member/Chair

6 January 2020

Date