



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/20/0872

Re: Property at 35 G/L St Ninian Terrace, Dundee, DD3 9LT (“the Property”)

Parties:

Ms Elizabeth Mahady, 2 Osprey Place, Kingennie, Dundee, DD5 3PS (“the Applicant”)

Miss Susan Clayson, 35 G/L St Ninian Terrace, Dundee, DD3 9LT (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Possession be made under section 18(3) of the Housing (Scotland) Act 1988

Introduction

This case was heard at the same time as case reference FTS/HPC/CV/20/0675. The Applicant is the landlord and the Respondent is the tenant under the relevant lease.

A Case Management Discussion (CMD) took place by teleconference on 5 August 2020 at 10am. The Applicant was represented by Hazel Young of Rockford Properties. The Respondent participated personally and represented her own interests.

The Applicant moved for orders in both applications. This was not opposed by the Respondent who accepted all the factual circumstances relied upon by the Applicant. No defence was offered to either application. It was most helpful that the Respondent had joined the discussion.

Findings and Reasons

These applications are under Rule 65 and Rule 70 and seek an order for eviction and a civil order for payment.

The Property is 35 G/L St Ninian Place Dundee DD5 3PS.

A short assured tenancy was entered into between the parties with entry on 9 October 2014. Monthly rent was stipulated at a rate of £450 per calendar month. A deposit was paid in the sum of £450.

A notice to quit and was lawfully served upon the Respondent on 27 December 2019. This gave the Respondent the required 2 months' notice under the short assured tenancy for the purposes of repossession under section 33 of the 1988 Act. Additionally an AT6 was served in respect of grounds for eviction being rent arrears for more than 3 months. Such additional grounds are not necessary but it is competent to proceed in this manner. The application to the Tribunal is made with specific reference to those rent arrears.

The Applicant is entitled to recover possession of the Property under section 18(3) of the Housing (Scotland) Act 1988 under Ground 8 in Part II of Schedule 5 to the 1988 Act. At both the date of service of the notice under section 19 of the Act and at the date of the hearing at least three months' rent lawfully due from the Respondent was in arrears and the arrears were not as a consequence of a delay or failure in the payment of relevant housing benefit.

The Applicant is entitled to recover the arrears of rent due under the lease. Rent arrears started to accrue from October 2016. As at the time of the payment application being made to the Tribunal rent was outstanding totalling £4,271.22.

Further rent arrears has accrued since the application was lodged. An up to date rent statement disclosing rent arrears as at 9 July 2020 in the sum of £6,520.72 was submitted on 20 July 2020. A formal application to amend under Rule 14A was made. 14 days' notice had been given to the Tribunal and Respondent before the CMD.

The Tribunal found the submissions made by the Applicant's representative credible and reliable and consistent with the documentary evidence. The documentary evidence is detailed and professional and was also found to be credible and reliable. The Tribunal attached weight to the totality of this evidence which is unchallenged, and indeed accepted, by the Respondent.

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.

Richard Mill

Legal Member/Chair

Date 5 August 2020