



Decision 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/21/3203

Re: Property at 14 Almond Road, Blackburn, West Lothian, EH47 7HE (“the Property”)

Parties:

Glebe Estates, 20 Glenbrae Court, Bathgate, EH48 1DR (“the Applicant”)

Mr Kamil Jop, 14 Almond Road, Blackburn, West Lothian, EH47 7HE (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr A Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession should be granted against the Respondent.

Background

1. This is an application for an order for possession under Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The application was dated 13th December 2021. The Applicant’s representative lodged copy notice to quit and Form AT6 with execution of service, the tenancy agreement between the parties which commenced on 8th June 2015, copy correspondence from the letting agent to the Respondent, and section 11 notice with proof of service.

The order is sought under grounds 8, 11 and 12 of the Housing (Scotland) Act 1988 (“the Act”).

2. Intimation of a Case Management Discussion (“CMD”) to take place on 8th April 2022 was made by Sheriff Officers upon the Respondent on 24th February 2022.
3. By email dated 18th March 2021, further copy section 11 notice and evidence of service was lodged by the Applicant’s representative.
4. By email dated 8th April 2022, the Applicant’s representative lodged an updated rent statement with a letter indicating that arrears in the sum of £14,035.77 were now outstanding.

Case Management Discussion

5. A CMD took place by telephone conference on 8th April 2022. The Applicant was not in attendance and was represented by Mr Lewis Bryan, Solicitor. The Respondent was not in attendance.
6. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD and that the requirements of Rule 17(2) had been satisfied and it was appropriate to proceed with the application in the absence of the Respondent.
7. Mr Bryan moved for an order for possession on the basis that Grounds 8, 11 and 12 had been met. There had been no payment of rent for some time, other than small payments of Housing Benefit each month. In addressing reasonableness, Mr Bryan said several letters had been sent to the Respondent. He had not responded and would not engage with the letting agent. The arrears had been going on for years. The letting agent had visited the property in April 2021 to try to come to a payment arrangement and the Respondent had slammed the door in their face.
8. Responding to questions from the Tribunal regarding the Respondent’s personal circumstances, Mr Bryan said the letting agent did not have much information as the Respondent does not engage. No reason had been put forward for his inability to pay. The Respondent has been quite hostile and this has meant two people always attend during visits.
9. There was some discussion concerning the updated rent statement, which showed an adjustment credit entry of –£3568.11 on 21st October 2021. The Tribunal took a short adjournment to allow Mr Bryan to seek clarification from the letting agent and to request further information on the Respondent’s personal circumstances.

10. The hearing reconvened and Mr Bryan explained the credit entry was due to the account having been closed and another opened. There had been no payment made. It was simply an adjustment made for administrative purposes.
11. Mr Bryan said, as far as the letting agent is aware, the Respondent lives alone. There was no further information available about his work circumstances.

Findings in Fact

12.
 - (i) Parties entered into an assured tenancy agreement in respect of the Property on 8th June 2015 for a period of six months at an agreed rent of £550 per month.
 - (ii) Notice to Quit and Form AT6 were served upon the Respondent by Sheriff Officers on 3rd June 2021.
 - (iii) The Notice to Quit terminated the contractual tenancy on 8th December 2021.
 - (iv) Form 11 was served upon the Local Authority on 15th December 2021.
 - (v) As at the date of service of the Form AT6 there was in excess of three month's rent outstanding.
 - (vi) As at the date of the CMD there was in excess of three month's rent outstanding.
 - (vii) The Respondent has persistently delayed paying rent which has become lawfully due.
 - (viii) Rent lawfully due from the Respondent is unpaid on the date on which the proceedings for possession were begun, and at the date of service of the Form AT6.
 - (ix) There was no evidence before the Tribunal that the arrears of rent were due to a delay or failure in the payment of a relevant benefit.

Reasons for Decision

13. The Tribunal was satisfied that Grounds 8, 11 and 12 were established. There was no information before the Tribunal to suggest that rent was outstanding as a consequence of a delay or failure in the payment of a relevant benefit.

14. In assessing reasonableness, the Tribunal took into account the limited information available about the Respondent, including the fact that he does not have any dependants living at the Property. There is a considerable level of rent arrears and the Respondent has not engaged in order to address this, nor did he appear at the CMD to put forward any circumstances that would rebut the Applicant's position that it was reasonable to grant the order based on the high level of arrears and the lack of engagement over a considerable period. The Tribunal considered it was reasonable in all the circumstances of the case to grant the order sought.

Decision

15. An order for possession of the Property is granted against 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.

Helen Forbes

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Legal Member/Chair

8th April 2022
Date