



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

Reference number: FTS/HPC/EV/21/3160

Property: 31 Mansefield, East Calder, Livingston, West Lothian, EH53 0JB

Parties:

Richard Baker, 52 Comrie Street, Glasgow, G32 9TU (“the Applicant”)

Karen Clark, 31 Mansefield, East Calder, Livingston, West Lothian, EH53 0JB (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of Section 18 of the Housing (Scotland) Act 1988 under Grounds 8, 11, & 12 of part 3 of schedule 5 to the 1988 Act.

Background

The Applicant sought recovery of possession of the Property in terms of Section 18 of the Housing (Scotland) Act 1988 (“the Act”). The documents produced were a Short Assured Tenancy agreement dated 11 March 2016 and a form AT6 dated 10 June 2021, a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003, and a schedule of unpaid rental. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place before the Tribunal at 10.00am on 15 March 2022 by telephone conference. The Applicant was represented by Ms K Donnelly, of T C Young & Co, solicitors. The respondent was neither present nor

represented. The time, date, and place of the case management discussion had been intimated to the respondent by Sheriff Officers.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Short Assured Tenancy Agreement for the Property dated 11 March 2016. In terms of clause 2.1 of the tenancy agreement the respondent agreed to pay rental at the rate of £725.00 per month.

2. The respondent has not made a full payment of rental since April 2021. At the date of application there were arrears of rent totalling £4,247.95. On 4 February 2022 there were rent arrears totalling £5,097.25. Today, there are rent arrears totalling £5,222.95.

3. Since August 2021 the respondent has been entitled to housing benefit paid at £600 per month. That leaves a balancing payment of £125.00 to be made by the respondent. The respondent has not made that balancing payment so that the arrears have steadily increased.

3. On 10 June 2021 the applicant served a form AT6 on the respondent. On 17 December 2021 the applicant submitted this application to the tribunal.

4. The monthly rent is £725.00. The respondent has not made a full payment of rent since April 2021, so that at the date of application there were nearly 6 months arrears of rental. At today's date arrears of rental total £5,097.95, which is more than 7 months rental.

5. The Applicant seeks recovery of possession of the Property in terms Grounds 8, 11 & 12 of part 3 of schedule 5 to the 1988 Act. At the date of application there were nearly 6 months arrears of rental. At today's date arrears of rental total £5,222.95, which is more than 7 months rental.

6. The respondent offers no resistance to this application. Sheriff Officers served notice of this hearing on the respondent.

7. The respondent is a single adult. As far as the landlord is aware, she lives alone in the tenancy. When the tenancy commenced, she was employed and earned a salary of £23,000 per annum. Various attempts have been made by the applicant's representatives to engage with the respondent including a letter of 17 August 2021 in respect of pre-action requirements. This was followed up with further efforts at engagement including a home visit, but access was denied. The respondent has resisted all attempts at communication on behalf of the landlord, so that it is not known if the respondent's circumstances have changed.

8. There is no suggestion that the respondent is in arrears of rent either wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. Indeed, payments of partial housing benefit of £600 per month commenced in August 2021 and continue in payment. This, however, leaves a monthly shortfall of £125 and arrears continue to accumulate with no prospect of their being repaid. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of section 18 of the Housing (Scotland) Act 1988. The basis for possession set out in in terms Grounds 8, 11 and 12 of schedule 5 to the 1988 Act are established. The respondent offers no defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 18 of the Housing (Scotland) Act 1988 under Grounds 8, 11, and 12 of schedule 5 to the 1988 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

P. Doyle

15 March 2022

Legal Member