



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 18(1) of the Housing
(Scotland) Act 1988 (Act)**

Chamber Ref: FTS/HPC/EV/19/0940

Re: Property at 36 Aster Gardens, Motherwell, ML1 2SZ (“the Property”)

Parties:

Mr Jim Henderson, 18 Woodlands Road, Motherwell, ML1 2PX (“the Applicant”)

Miss Melanie Shaw, 36 Aster Gardens, Motherwell, ML1 2SZ (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction/recovery of possession be granted.

Background

This is an application under section 18(1) of the Act for eviction/recovery of possession under Grounds 11 and 12 of Schedule 5.

The Tribunal had regard to the following documents:

1. Application received 22 March 2019;
2. Assured Tenancy dated 9 January 2015;
3. AT6 dated 4 January 2019;
4. Notice to Quit dated 4 January 2019;
5. Section 11 Notice;
6. Schedule of Rent Arrears.

Case Management Discussion (CMD)

The case called for a CMD on 4 July 2019. The Applicants were present and represented by Mr Hemmings. The Respondent was not present and was not represented.

The Tribunal noted that the application was under Grounds 11 and 12 of the Act. It was clear from the Schedule of Arrears and the Respondent's time to pay application in the related action (CV/19/1604) that the Respondent admitted the arrears and had not been paying her rent since December 2018.

The Tribunal made the following findings in fact:

1. The Parties entered into an assured tenancy on 9 January 2015;
2. The monthly rent was £395;
3. As at the date of raising the current proceedings the Respondent was in arrears of rent;
4. The Respondent has not paid rent since December 2018;
5. As at 4 July 2019 the Respondent is in rent arrears of £3,375.

Grounds 11 and 12 are both discretionary grounds. The Tribunal considered the evidence before it and determined that the eviction order should be granted given the Respondent's persistent failure to pay rent under Ground 11 and the fact that rent was due when the AT6 was served and at the date proceedings commenced (Ground 12).

The Tribunal accordingly grants the order for recovery of possession/eviction.

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.

A Strain

Legal Member/Chair

4 July 2019

Date