



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

Chamber Ref: FTS/HPC/EV/20/1737

Re: Property at 134/5 Gorgie Road, Edinburgh, EH11 2NS (“the Property”)

Parties:

Ms Louisa Fernandez Roberts residing at Abel Tasmanstraat 32, 4702 TM Roosendaal, The Netherlands (“the Applicant”)

Mr Paul Anderson, residing at 134/5 Gorgie Road, Edinburgh, EH11 2NS (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal 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 under Ground 8 of schedule 5 to the Housing (Scotland) Act 1988 Act.

Background

The Applicant sought recovery of possession of the Property in terms of Section 18 of the Housing (Scotland)(Act) 1988 (“the 1998 Act”). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a notice to quit, served on 6 April 2020, Form AT6 together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate 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 by telephone conference at 10.00am on 12 October 2020. The Applicant was represented by Ms K Wilson of Paris Steele, Solicitors. The hearing was delayed until 10.10am to allow sufficient time for the respondent to join the telephone conference, but there was no appearance by or on

behalf of the Respondent. Notification of the time date and place of the hearing had been served on the respondent by Sheriff Officers on 11 September 2020.

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 in February 2013.
2. The period of the Lease was from 2 February 2013 to 1 August 2013 and thereafter on a month to month basis.
3. The initial rent in terms of the Tenancy Agreement was £445 per month.
4. The Respondent failed to make payment of rent in March, April, August and September all 2019. The respondent has not paid any rent since January 2020. At the date of application, there were arrears of rental totalling £4,450.00. At today's date there are still rent arrears totalling £4,450.00.
5. On 6 April 2020 the applicant served a notice to quit and form AT6 on the respondent. On 18 August 2020, the applicant submitted an application to the tribunal. At the date of service of the notice to quit and form AT6 the rental was 8 months in arrears.
6. The Applicant seeks recovery of possession of the Property in terms Ground 8 of schedule 5 to the 1988 Act. The rental was ten months in arrears at the date the application was submitted. Rental is still ten months in arrears.
7. The respondent offers no resistance to this application. 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. 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 Ground 8 of schedule 5 to the 1988 Act is 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 Ground 8 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.

Paul Doyle

12 October 2020