

Housing and Property Chamber
First-tier Tribunal for Scotland



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/22/4373

Re: Property at Flat 1 5 Colquhoun Square, Helensburgh, G84 8AD (“the Property”)

Parties:

Mr Joe Callaghan, 68 James Street, Helensburgh, G84 9LF (“the Applicant”)

Mr Norrie Muir, Flat 1 5 Colquhoun Square, Helensburgh, G84 8AD (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application.

Background

The Applicant seeks an Eviction Order on the basis of Ground 8A of Schedule 5 of the Act in that the Respondent is said to have been in substantial arrears of rent of at least six months’ worth of rent arrears. The Application is accompanied by a copy of the tenancy agreement, evidence of the rent arrears, the notice to quit and form AT6 served originally in terms of ground 8 of schedule 5 of the act with proof of service and evidence of compliance with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 and the Homelessness (etc) (Scotland) Act 2003. The Applicant subsequently sought to amend the Application to proceed in terms of Ground 8A.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 9 May 2023. The Applicant was present together with his solicitor, Mr Doull of Brunton Miller. The Respondent was also personally present. Neither party had any preliminary matters to raise. The Respondent confirmed that he understood the Application and that he was content for the Tribunal to proceed.

The Respondent acknowledged that he had currently accrued rent arrears in the sum of £8,093.00. He did not oppose the Eviction Order and in fact confirmed that he was in the process of moving out of the Property and had in fact substantially moved into an alternate property. Having heard from parties, the Tribunal made the following findings in fact.

Findings in Fact

- I. The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent on an Assured Tenancy. Parties had likely intended for the agreement to be a short-assured tenancy agreement but the initial term was for less than six months and so the tenancy must be considered to be an assured tenancy;*
- II. The contractual monthly rent was £440.00;*
- III. The Respondent fell into rent arrears;*
- IV. The Applicant served a Notice to Quit and Form AT6 on the Respondent on the basis of Ground 8 of Schedule 5 of the Act. The Ground was established as at the date of service and remains established as at today's date.*
- V. It is now fair and reasonable to allow the Applicant to amend the ground relied on to ground 8A. The Respondent is in substantial rent arrears of a sum in excess of six months' worth of rent;*
- VI. The Applicant has complied with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 and the Homelessness (etc) (Scotland) Act 2003;*
- VII. The Respondent is in the process of vacating the Property and largely now lives elsewhere.*

Reasons for Decision

Having made the above findings in fact, the Tribunal considers that it is reasonable to make an Eviction Order and grants the Application.

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.

Legal Member/Chair

9 May 2023
Date