



**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**

Chamber Ref: FTS/HPC/EV/19/2785

Re: Property at 5B Main Street, Bonhill, G83 9JU (“the Property”)

Parties:

Mr Hugh Wells, 55 Ashton View, Dumbarton, G82 5DP (“the Applicant”)

Ms Aileen McMartin, 5B Main Street, Bonhill, G83 9JU (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. By application dated 5 September 2019 the applicant sought an order under section 18 of the Housing (Scotland) Act 1988 (“the Act”) and in terms of rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 25 September 2019 the application was accepted by the Tribunal and referred for determination by the Tribunal.

3. A case management discussion was fixed to take place on 12 November 2019 and appropriate intimation of that hearing was given to both the landlord and the tenant.

The Case Management Discussion

4. The case management discussion took place on 12 November 2019. The applicant was represented by her solicitor Mr Allan Niblett of Philpot Platt & Niblett Solicitors, Dumbarton. The respondent did not attend.
5. This application was conjoined with another application by the same applicant seeking payment of rent arrears. The reference number for that application is FTS/HPC/CV/19/1852. Both applications were considered at the same case management discussion.
6. The Tribunal explained the purpose of the case management discussion and the powers available to the Tribunal to determine matters. The Tribunal asked various questions of the landlord's solicitor with regard to the application and to the ground being used for eviction. The landlord's solicitor confirmed that he wished the orders sought to be granted.

Findings in Fact

7. The applicant and the respondent as respectively the landlord and the tenant entered into a tenancy at the property on 8 June 2016.
8. The tenancy was a short assured tenancy in terms of the Act.
9. The tenant was obliged to pay rent of £500 per month. Rental payments were due monthly in advance. By 13 August 2019 the tenant was in arrears to the extent of £3929.01. On 16 August 2019, the landlord served upon the tenant a notice of proceedings for possession required by section 19 of the Act. This notice was the form AT6 and set out the grounds for eviction upon which the landlord intended to rely.

10. The grounds for eviction narrated in the form AT6 were grounds 8, 11 and 12, which are all grounds contained within schedule 5 of the Act.

11. At both the date of service of the form AT6 and at the date of the hearing rent arrears amounted to £3929.01 which is in excess of 3 months' rent arrears.

12. Accordingly the grounds for eviction based on ground 8 was established. Grounds 11 and 12 were also established.

Reasons for Decision

13. The order for possession was sought by the landlord based on grounds specified in the Act and properly narrated in the notice served upon the tenant. The Tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon those grounds and the relevant terms of the tenancy agreement which had been lodged with the application.

14. The Tribunal accepted the unchallenged evidence of the applicant's solicitor with regard to the non-payment of rent by the tenant and the level of arrears.

15. One of the grounds relied upon by the landlord is a mandatory ground. Ground 8 requires that the Tribunal must grant the order for possession if it is satisfied that the ground is established. The Tribunal is satisfied that ground 8 is established and that 3 months' rent arrears were owed both at the date of service of the form AT6 and at the date of the case management discussion. Accordingly the Tribunal grants the order sought.

Decision

16. The order for recovery of possession is granted.

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.

Jim Bauld

Legal Member/Chair

Date 12 November 2019