



**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/19/2977

Re: Property at 32 Argyll Street, Alloa, FK10 3RP (“the Property”)

Parties:

Mrs Sharon Inglis, 51 Mariner Road, Camelon, Falkirk, FK1 4LE (“the Applicant”)

Mr Michael Galligan, 32 Argyll Street, Alloa, FK10 3RP (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property.

Background

By application, received by the Tribunal on 23 September 2019, the Applicant sought an Order for Possession under Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Grounds relied on were Grounds 8, 11 and 12 of Schedule 5 to the Act.

The application was accompanied by a copy of a Short Assured Tenancy Agreement between the parties, commencing on 26 February 2016 at a rent of £450 per month, and a rent statement showing arrears as at September 2019 of £1,503.29. The Applicant stated that the Respondent had been receiving local authority funding towards the rent, but this had ceased on 28 March 2019. At that date, the arrears had been £1,003.29. Since then, rent had fallen due for 5 months and the Respondent had made payments since then of £1,750, leaving a balance due of £1,503.29. The Applicant also provided a copy of a Form AT6 Notice dated 29 August 2019, advising the Respondent that the Applicant intended to apply to the Tribunal for an Order for Possession under Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act and that the application would not be made before 17 September 2019.

The Applicant also provided the Tribunal with proof of service of the Form AT6 Notice by sheriff officers on 30 August 2019.

On 23 October 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 13 November 2019. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Wallace House, Maxwell Place, Stirling, on the morning of 25 November 2019. The Applicant was represented by Miss Mhairi McCallum of Jardine Donaldson, solicitors, Alloa. The Respondent was not present or represented. Miss McCallum advised the Tribunal that no rent payments had been received since the date of the application and the arrears now stood at £2,402.29. She asked the Tribunal to make an Order for Possession without a hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would determine the application without a Hearing.

Section 18 of the 1988 Act states that the Tribunal shall not make an Order for Possession except on one or more of the Grounds set out in Schedule 5 to the Act and that the Tribunal shall make an Order for Possession if it is satisfied that any of the Grounds in Part I of Schedule 5 is established. Ground 8 of Part I of Schedule 5 to the 1988 Act applies where both at the date of service of the Notice required under Section 19 of the 1988 Act (the Form AT6 Notice) relating to the proceedings for possession and at the date of the Hearing, at least three months' rent lawfully due from the tenant is in arrears.

The Tribunal was satisfied that the requirements of Ground 8 had been met, the rent having been more than three months in arrears both at the date of service of the Form AT6 Notice and at the date of the Case Management Discussion. Accordingly, the Tribunal was bound to make an Order for Possession of the Property.

Having determined the application under Ground 12 of Schedule 5 to the 1988 Act, it was not necessary for the Tribunal to consider further the application under Grounds 11 or 12.

Decision

The Tribunal determined that the application should be decided without a Hearing and made an Order for Possession of the Property.

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

25 November 2019

Date