



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/22/3907

Re: Property at 100 James Brown Ave, Ayr, KA8 9SG (“the Property”)

Parties:

Mr Andrew Currie, 176 Carnshalloch Ave, Patna, KA6 7NS (“the Applicant”)

Miss Tracey Henderson, 100 James Brown Ave, Ayr, KA8 9SG (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. Case management discussions (“CMD”) took place on 14 March and 16 May 2023. Reference is made to the Notes and Notices of Direction issued following those CMDs.
3. The Tribunal assigned a Hearing for 16 June 2023.
4. The Tribunal received written representations from the Applicant’s representative on 1 and 5 June 2023.

5. On 12 June 2023, the Tribunal received an email from the Respondent's representative advising that parties had reached agreement and attaching a joint minute of admissions.
6. On 13 June 2023, both parties' representatives confirmed by email that it is agreed that ground 8A is established.

Consideration of the application without a Hearing

7. In terms of Rule 18 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, the Tribunal may make a decision without a Hearing. In light of the joint minute of admissions submitted, the Tribunal was satisfied that it was appropriate to make a decision without a Hearing.
8. The Tribunal discharged the Hearing assigned for 16 June 2023.

Findings in Fact

9. The parties entered into an assured tenancy which commenced 22 August 2014.
10. The contractual monthly rent was £450 per month, payable in advance.
11. The Applicant's representative served a Notice of Proceedings (form AT6) and a Notice to Quit on the Respondent by recorded delivery on 8 February 2022.
12. As at the date of service of the notices, the Respondent incurred rent arrears totalling £3,166.74, which equated to more than 6 months' rent arrears.

Reason for Decision

13. The parties were agreed that when the notices were served on the Respondent, substantial rent arrears had accrued, equating to more than 6 months' rent. At the time the notices were served, ground 8A was not available to the Applicant. Ground 8A was introduced by the Cost of Living (Tenant Protection) (Scotland) Act 2022. The Tribunal was satisfied that the Applicant was entitled to proceed on the basis of ground 8A.
14. The parties agreed the terms of a joint minute of admissions. The Respondent consented to an order for eviction being granted.
15. The updated rent statement lodged discloses that the rent arrears have increased substantially to £9,201.76. It appears therefore that the tenancy is not sustainable.

16. The Tribunal was satisfied that, in light of these circumstances, it was reasonable to grant an order evicting the Respondent from the property.
17. The parties agreed that the Applicant would not enforce the eviction order for two months following the order being issued. On that basis, the Tribunal superceded extract of the order for a period of two months.

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.

Nicola Irvine

Legal Member/Chair

14 June 2023

Date