



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/23/2879

Re: Property at 17 Tarfside Avenue, Glasgow, G52 3DQ (“the Property”)

Parties:

Mr David Purdon, 116 Crookston Avenue, Glasgow, G52 3PR (“the Applicant”)

Mr Craig Dollard, 17 Tarfside Avenue, Glasgow, G52 3DQ (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and David Fotheringham (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for possession of the property and the removal of the Respondent from the property.

1. By application dated 22 August 2023 the Applicant’s representatives, Complete Clarity, Solicitors, Glasgow, applied to the Tribunal for an order for possession of the property in respect of alleged rent arrears and other grounds arising from the Respondents’ tenancy of the property. The Applicants submitted a copy of the tenancy agreement together with a rent statement, Form AT6 and Notice to Quit with proof of service, pre-action letter and Section 11 Notice with proof of sending in support of the application.
2. By Notice of Acceptance dated 11 September 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 2 November 2023.

4. By email dated 28 November 2023 the Applicant's representatives submitted further written representations to the Tribunal by way of an updated rent statement.

The Case Management Discussion

5. A CMD was held by teleconference on 5 December 2023. The Applicant was represented by Ms Siobhan Brown from the Applicant's representatives. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation had been given to the Respondent determined to proceed in his absence.
6. Ms Brown advised the Tribunal that the application was proceeding on the basis that there was an Assured Tenancy as the Applicant could not remember if the Respondent had been given a Form AT5 at the commencement of the tenancy in 2014 although the tenancy agreement provided that he had received the document. Ms Brown went on to say that the Respondent had been served with a Form AT6 and a Notice to Quit by Sheriff Officers on 14 May 2023. She said the principal ground for seeking possession of the property had been the substantial level of rent arrears that had accrued but that in addition the Respondent had been keeping dogs in the property and had allowed them to urinate and defecate in and around the property resulting in complaints from neighbours. She said there had also been complaints from neighbours about the Respondent causing noise issues and disturbing his neighbours. The Tribunal noted that at the date of service of the Form AT6 the Respondent had accrued rent arrears amounting to £28793.40 and at the date of the CMD the arrears had risen to £32753.40 with no rent having been paid since October 2018.
7. The Tribunal asked why the Respondent had been allowed to accrue such a large level of arrears before any action was taken and Ms Brown explained that although the arrears had started to accumulate between 2016 and 2018 the Respondent had been making sporadic payments and had engaged with the Applicant's letting agents and offered to enter into payment plans. Ms Brown went on to say that an attempt to serve notice to end the tenancy in 2019 had been unsuccessful and thereafter the Applicant's health had deteriorated and no action had been taken until her firm was instructed in March this year.
8. The Tribunal noted that a pre-action letter had been sent to the Respondent on 15 March 2023 and that a Section 11 Notice had been sent to Glasgow city Council on 22 August 2023. Ms Brown explained that the owner of the property, Mrs Purdon, was in employment in a care home but took no part in managing the tenancy and that the Applicant was not in good health and now retired. The loss of income from the property was having an adverse effect

upon them. She said that the Respondent was in part-time employment but she did not know where he worked.

9. Ms Brown submitted it was reasonable to grant the order for possession under Ground 8A of Schedule 5 of the Housing (Scotland) Act 1988 ("the 1988 Act"). She said she was not insisting on the other grounds mentioned in the application.

Findings in Fact

10. The Parties entered into an Assured Tenancy that commenced on 13 March 2014 at a rent of £495.00 per month.
11. The Respondent fell into rent arrears from January 2016 and has not paid any rent since October 2018.
12. The Respondent was served with a Notice to Quit and a Form AT6 under grounds 8A, 11, 12, 13 and 14 of Schedule 5 of the 1988 Act by Sheriff Officers on 13 March 2023.
13. At the date of service of the Form AT6 the Respondent owed rent of £28793.40.
14. The respondent was sent a pre-action letter by the Applicant's representatives on 15 March 2023.
15. The Applicant's representatives sent a Section 11 Notice to Glasgow City Council by email on 22 August 2023.
16. The Applicant is in poor health and has retired. His wife is in full time employment in a care home.
17. The Applicant and his wife rely upon the income from the property to supplement their income.
18. The Respondent is in part-time employment.

Reasons for Decision

19. The Tribunal was satisfied from the written representations and documents submitted by the Applicant's representatives together with the oral submissions that the parties had entered into an Assured tenancy and that the Respondent had fallen into very substantial rent arrears with no rent having been paid since October 2018. The Tribunal considered it unfortunate that the

arrears had been allowed to build up to such a high level although understood that this may have been as a result of the Applicant's deteriorating health.

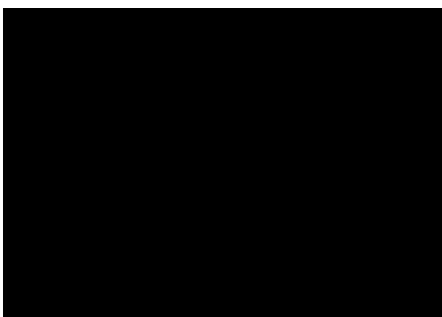
20. The Tribunal was satisfied that the Respondent had been properly served with a Notice to Quit and Form AT6 and that at the date of service by Sheriff Officers an amount equivalent to more than six months' rent was due. Furthermore, by the date of the CMD the arrears had continued to increase with some 66 months' rent then being due. Given that the Respondent had not submitted any written representations or attended at the CMD and given the deteriorating health and circumstances of the Applicant and that an appropriate pre-action letter had been sent to the Respondent and a Section 11 Notice sent to Glasgow City Council, the Tribunal was satisfied that it was in all the circumstances reasonable to grant the order sought.

Decision

21. The Tribunal finds the applicant entitled to an order for possession of the property and the removal of the Respondent from the property under ground 8A of Schedule 5 of 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.



Legal Member/Chair

5 December 2023
Date