



**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/23/3471

Re: Property at 91 Barclay Street, Stonehaven, AB39 2AP (“the Property”)

Parties:

**Mrs Sheila Howarth, Michael Howarth, 24 David Street, Stonehaven, AB39 2AL
 (“the Applicant”)**

**Mr Stuart Stronach, 91 Barclay Street, Stonehaven, AB39 2AP (“the
 Respondent”)**

Tribunal Members:

Jan Todd (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
 Tribunal”) determined that an order for eviction in favour of the Applicant of the
 Respondents from the Property should be granted.**

Background

1. This was the first case management discussion in an application by the Applicant for eviction of the Respondent in terms of S18 of the Housing Scotland Act 1988 (the Act) and grounds 8A of Schedule 5 of the Act.
2. The following was submitted with the application:-
 - a. A copy of a summary of terms of agreement between the Applicant and the Respondent when the Respondent became a tenant in the Property commencing from 1st October 2016
 - b. Copy Notice to Quit dated 11th July 2023
 - c. Copy AT6 dated 11th July 2023 stating proceedings will not be raised before 2nd October 2023
 - d. Certificate of intimation by sheriff officer of Notice to Quit and AT6 dated 19th July 2023

- f. S11 notice to Aberdeenshire Council and email to Aberdeenshire council dated 2nd October 2023
- g. Copy letters re pre action requirements
- h. Copy rent statement to 2nd October 2023 showing sum outstanding of £11480.

3. Intimation of the CMD was served by sheriff officer on the Respondent on 18th December 2023 by leaving it at the Property address.

The CMD Discussion

1. The CMD today proceeded by way of teleconference. The Applicants attended but the Respondent did not attend nor was he represented the Tribunal allowed further time after 10 o'clock for him to dial in but there was no appearance and as the Tribunal was satisfied service of the papers and intimation of the date and time of the teleconference had been made on the Respondent by sheriff officer they deemed it fair to continue in his absence.
2. The Convener made introductions, and explained how the CMD would be conducted over the teleconference. There were no written representations by the Respondent. Mrs Sheila Haworth spoke on behalf of the Applicants and advised that she and her husband were seeking an order for eviction. She explained that the Respondent was a long term tenant of theirs and has lived at the Property, which is a two bedroomed flat, from 1st October 2016. She advised that as he had moved from another Property of the landlords she had not given him a written lease but confirmed that it started on 1st October 2016 was a rolling lease and the rent was £140 per week. She advised that for a number of years the rent was paid regularly and if there was ever a problem they had a good relationship with the Respondent and had come to an agreement re rent. However she advised that he had been signed off from his work and stopped paying in 2022; and that he stopped communicating or responding to any communications. She advised that they believe he is still in the Property as the tenant below hears him moving. She advised the arrears are now £14,000 and that they cannot afford to continue with the tenancy due to this level of arrears. She advised that they may have to sell the Property now if they can't recoup these losses.
3. Mrs Howarth confirmed that they have tried to come to an arrangement with the Respondent, which they had previously managed to do, but for over the last year he has not responded to them nor does he answer the door or respond to any other letters or callers. She advised that due to this they sent the last pre action requirement letter by sheriff officer.
4. Mrs Howarth confirmed she has contacted the housing office to see if they would allow any housing benefit to be paid directly to her but they would not give her any information or advise if the tenant was receiving benefits. In the circumstances she confirmed that they cannot continue with this situation and need the eviction order. She felt this would be best for the tenant as well as the Council could then assist him.

Findings in Fact

1. The Applicant and Respondent have entered into an assured tenancy of the Property from 1st October 2016.

2. The Applicant is the owner and Landlord of the Property
3. The Tenancy is an Assured Tenancy in terms of the Housing (Scotland) Act 1988.
4. The rent is £140 per week.
5. The Applicant has served by sheriff officer, a Notice to quit and AT6 notice dated 11th July 2023 on the Respondents giving notice that they required possession of the Property by 1st October 2023.
6. The AT6 notice specifies that the landlord is relying on Ground 8A of Schedule 5 of the 1988 Act.
7. The arrears of rent due at 10th July 2023 amounted to £9,800.
8. The Arrears of rent at today's date are £14,000
9. The Respondent who is the tenant has not vacated the property or responded to the Notice to Quit or AT6 notice.
10. The Respondent has been served notice of this application and has made no representations regarding this application.
11. The Tribunal accepts it is reasonable for the order of eviction to be granted.

Reasons for Decision

1. The Applicant has entered into a Tenancy with the Respondent which commenced on 1st October 2016. The Property is a two bedroomed flat. The rent agreed was £140 per week. There was no deposit.
2. The Applicants have applied for an order for eviction under Ground 8 A of Schedule 5 of the Housing Scotland Act 1988 which is that "The tenant has accrued rent arrears under the tenancy in respect of one or more periods, and the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy when notice is served under section 19 on this ground or, if dispensed with, when proceedings are raised for an order of possession on this ground"
3. The Tribunal accepted the evidence given by Mrs Howarth which was clear and credible and supported by the documentation lodged with the application. Mrs Howarth confirmed that the rent arrears were over 6 months at the date of service of the AT6 and the rent statement shows that they were £9,800 on 10th July 2023. The amount of arrears exceeded 6 months then and is currently £14,000 which is more than 20 months arrears. No rent has been paid since June 2022.
4. A notice to quit has been served on an ish date and has brought the contractual tenancy to an end. The Tribunal accepts that the notice required under S19 of the 1988 Act has been validly served and that this action is competent. The Applicant has served pre action letters both by recorded delivery and also the last one has been sent by sheriff officer advising where the Respondent can seek assistance. The Applicant has advised that previously they have worked with the Respondent to manage any issues with the Property but this time he is refusing to communicate or answer the door to discuss anything to do with his tenancy.
5. The Tribunal was advised that the Applicant believes the Respondent may be on housing benefit and was applying for other benefits but the Applicant is not aware of any issues with these as the local Council would not provide any information to her. The Applicant advised that the Respondent lives alone in the Property, that he had a job although he may have lost it and that although

he has not been seen for some time there are food deliveries made to the Property by a supermarket.

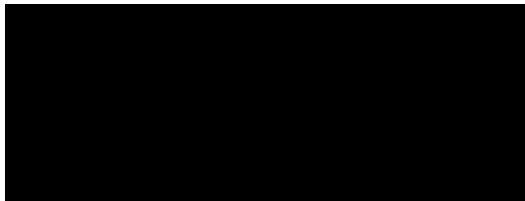
6. The Tribunal finds in the absence of any submissions by the Respondent, that is reasonable to grant an order for possession given the significant level of arrears, the fact the arrears are continuing to accrue and that there is no indication this is the result of a failure or delay in receiving benefits. The Applicants have advised they cannot carry on managing this loss of income and that they will likely have to sell the Property to recoup these losses.

Decision

An order for repossession 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.



Legal Member/Chair

Date 7th February 2024