



**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/23/4151

Re: 2 Fyne Court, Earnock, Hamilton ML3 8UH (“Property”)

Parties:

**Parveen Liaquat and Rizan Liaquat, 36 Royal Gardens, Bothwell Glasgow G71
8SY (“Applicant”)**

**Patten & Prentice LLP, 2 Ardgowan Square, Greenock PA16 8PP (“Applicant’s
Representative”)**

**Robert Nicholas and Emma Donaldson, 2 Fyne Court, Earnock, Hamilton ML3
8UH (“Respondent”)**

Tribunal Members:

**Joan Devine (Legal Member)
Janine Green (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 possession of the Property should be
made in terms of section 18 of the Housing (Scotland) Act 1988.**

Background

The Applicant sought recovery of possession of the Property in terms of Section 18 of the Housing (Scotland) Act 1988 (“1988 Act”). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement and form AT5 dated 11 April 2016; two form AT6 dated 23 August 2023 addressed to each Respondent, one based on grounds 8, 11 and 12 and one based on ground 8A; sheriff officers execution of service of the AT6 on each Respondent on 23 August 2023; Notice to Quit from the Applicant to each Respondent dated 7 February 2023; sheriff officer certificate of service evidencing service of the Notice to Quit on each Respondent on 7 February 2023; statement of rent arrears; notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 17

November 2023; letter to the Respondent dated 17 November 2023 regarding rent arrears and a certificate of service by sheriff officers evidencing service of the Application on the Respondent on 19 January 2024.

Case Management Discussion

A case management discussion took place before the Tribunal on 11 March 2024 by conference call. The Applicant was represented by Melissa Wilson of the Applicant's Representative. There was no appearance on behalf of the Respondent. In advance of the CMD the Applicant's Representative had lodged an updated statement of rent arrears showing arrears of £22,132.72.

Ms Wilson told the Tribunal that the sums paid towards the rent came from universal credit. She said the Applicant understood that the Respondent had 4 children, 2 of whom may be grown up. The Applicant was not sure if the younger children lived in the Property. Ms Wilson said the Applicant thought Ms Donaldson continued to live in the Property but they were less sure about Mr Nicholas.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement for the Property dated 11 April 2016.
2. The period of the Tenancy Agreement was from 11 April 2016 to 10 April 2017.
3. A notice to quit dated 7 February 2023 was served on each Respondent on 7 February 2023 which terminated the Tenancy Agreement with effect from 10 April 2023.
4. The rent in terms of the Tenancy Agreement was £780 per month.
5. A Form AT6 dated 23 August 2023 was served on each Respondent on 23 August 2023.
6. The Applicant sought recovery of possession of the Property on Grounds 8A, 11 and 12.
7. The Respondent had failed to make payment of rent due in full. The total outstanding at the date of service of the AT6 was £20,739.52 which exceeded 6 month's rent. The basis for possession set out in ground 8A of schedule 5 to the 1988 Act was established.

8. The Respondent has persistently delayed paying rent which has become lawfully due. The basis for possession set out in ground 11 of schedule 5 to the 1988 Act was established.
9. Some rent lawfully due from the Respondent was unpaid on the date on which proceedings for possession were begun and was in arrears at the date of service of the AT6. The basis for possession set out in ground 12 of schedule 5 to the 1988 Act was established.
10. Notice of the date of the hearing had been given to the Respondent by sheriff officer on 19 January 2024.

Reasons for the Decision

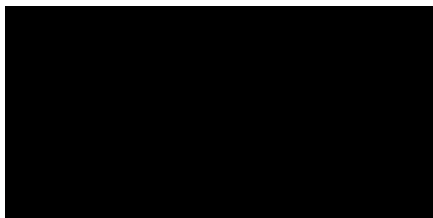
The Tribunal determined to make an Order for possession of the Property in terms of Section 18 of the 1988 Act. The basis for possession set out in grounds 8A, 11 and 12 of schedule 5 to the 1988 Act had been established. In the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an order for possession of the Property.

Decision

The Tribunal determined to make 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
Date : 11 March 2024