



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18(1) of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/23/3951

Re: Property at 31 Shadepark Gardens, Dalkeith, EH22 1BX (“the Property”)

Parties:

Robert P Slight & Sons Ltd, Unit B 1 Wallyford Industrial Estate, Wallford, EH21 8QJ (“the Applicant”)

Ms Margaret Shields, 31 Shadepark Gardens, Dalkeith, EH22 1BX (“the Respondent”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member) and Leslie Forrest (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Eviction be granted against the Respondent.

1. This was an application under Rule 65 and Section 18(1) of the Housing (Scotland) Act 1988 for an Eviction Order.
2. The Applicant was the Landlord and the Respondent was the Tenant.
3. The Respondent entered into a Tenancy Agreement on 1 September 2015. The Tenancy Agreement specified that £525 was due from 1 September 2015, increasing to £550 from 1 November 2015 in respect of rent each calendar month, payable in advance.
4. The Applicant asserted that the Respondent had accrued rent arrears, at the date of the application, in the sum of £4,045.12. The Ground for the Eviction Order relied upon by the Applicant is Ground 12 of Schedule 5, which provides the Tribunal with discretion to grant an Eviction Order, if satisfied that

would be reasonable, as some rent lawfully due from the Respondent was unpaid on the date on which the proceedings for possession began; and was in arrears at the date of the service of the notice under that section relating to these proceedings.

5. A two-member Case Management Discussion took place at 10.00 am on 10 June 2024 by teleconference. The Applicant's representative, Mrs Seaward and Mrs Shields, the Respondent, joined the Discussion.
6. Mrs Seaward informed us that rent arrears had been accruing since the beginning of the Tenancy due to a shortfall between Housing Benefit and the rent liability. There had been no attempt made by the Respondent to engage with the application or pay anything towards the arrears. The arrears had been accruing since 2015 and were £4045.12 at the time of the application.
7. Two letters were sent to the Respondent in May 2023 and June 2023 to inform her of the extent of rent arrears. The Respondent failed to engage with the Applicant in any way about this matter. Housing benefit had been paid directly to the Landlord in the sum of £484.60 every month. There had been only a few occasions where the amount paid exceeded the rent due since 2015.
8. The Applicant decided to make an application for an Eviction Order as the arrears had been accruing since 2015 with no response from the Respondent and the cost of maintaining the property had increased along with borrowing costs. It was no longer feasible to maintain the Tenancy without full payment of rent.
9. The Respondent, Mrs. Shields, informed us that she was not aware of any rent arrears and that the property had never required any maintenance. The Applicant had made two previous applications to evict her which were not granted. None of them were for non-payment of rent and it was never suggested during those previous applications, that rent arrears were accruing.
10. Mrs. Shields did not dispute that she had rent arrears in the sum of £4,045.12 and that they had been outstanding since the beginning of the Tenancy in 2015. She could not recall seeing letters advising her of rent arrears and where to get help. She had been in touch with the Local Authority who advised her to contact them after the outcome of the Discussion was known. She preferred to move on rather than oppose the granting of the Order.
11. Mrs. Shields explained that she has had a number of family members who had passed away, that she had been suffering from depression and was seeing the mental health team. Her husband has epilepsy and asthma.
12. Having considered all of the information, individually and together, we were satisfied that the sum of £4045.12 was due in respect of rent arrears which had been accruing since 2015. The Respondent did not oppose the granting of the Eviction Order. We were satisfied that granting the Order was reasonable, as some rent lawfully due from the Respondents was unpaid on

the date on which the proceedings for possession began; and was in arrears at the date of the service of the notice under that section relating to these proceedings.

13. Accordingly, an Order for Eviction was 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.



Lesley-Anne Mulholland
____ Date 10 June 2024

Legal Member/Chair