



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/23/3521

Re: Property at 85 Coats Street, Coatbridge, ML5 3NX (“the Property”)

Parties:

Mr Manjit Singh, 119 Inverlochry Road, Airdrie, ML6 9DJ (“the Applicant”)

Ms Teri-Anne Bate, 85 Coats Street, Coatbridge, ML5 3NX (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction should be granted.

Background

1. On 10th November 2023 the Applicant lodged an Application with the Tribunal under Rule 65 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondents from the property in terms of Grounds 8A, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988 as amended.

2. Lodged with the application were: -
 - a. Short Assured Tenancy Agreement dated 1st February 2017 and initially running from 1st February 2017 to 1st August 2018 and monthly thereafter, and with monthly rent of £490
 - b. AT6 Notice dated 28th March 2023;
 - c. Notice to Quit dated 28th March 2023 for 1st June 2023
 - d. Proof of service of 3 and 4
 - e. Section 11 Notice;

- f. Proof of Service of Section 11 Notice
 - g. Rent Statement
 - h. 3 Pre Action Requirement letters
3. The Application was served on the Respondent by Sheriff Officers on 9th February 2024.

Case Management Discussion

4. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant was present, and was represented by Mr McDermott of Friels, Solicitors. The Respondent joined the call and represented herself.
5. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and also that it was reasonable for the Tribunal to grant the order.
6. Mr McDermott sought an order for eviction in terms of Grounds 8A, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988. He said that at the time of serving the Notice to quit the rent arrears were in excess of six months’ rent as they stood at £9460. There had been consistent delays in payment of rent, as could be seen from the Rent Statement, and the current arrears were £11,160.
7. The Respondent disputed the amount of the rent arrears. She said that there were rent arrears, but did not think that they amounted to any more than £1000. She had made payments, sometimes through her bank and sometimes direct to the landlord in cash. She currently received some Housing Benefit, which she had paid to the landlord. She said that she lived alone in the property. It was a three bedroomed house but was classed as one bedroom, as two of the rooms were unusable. She had asked her son to leave as she had been intimidated by the landlord and his family and did not want her son involved. She said there had been issues over the years with repairs and with a boiler.
8. The Tribunal asked the Respondent if she had taken any advice. She said she had spoken to the housing department at the local authority. She had not consulted a solicitor or an advice agency.
9. As there was a dispute about the level of rent arrears the Tribunal decided to fix a Hearing, to take place in person. The Tribunal suggested that the Respondent may wish to consider taking advice.

Subsequent to CMD

10. After the CMD the Tribunal issued a Direction to the parties. The Applicant was to provide a Rent Statement drafted with columns showing the date, the rent due on that date, payments made and the date of those payments, and a running

balance so that the figure for arrears due on any given month could easily be ascertained, together with a list of witnesses. This was to allow the Respondent to check if all payments made by her have been included, and was to be lodged by 30th April 2024. The Respondent was to provide a list of all payments made by her by way of rent during the period of the tenancy, in a table with columns showing date paid and amount paid, a document showing what she considered was the amount of monthly rent due at the beginning of the tenancy and any rent increases she thought there had been over the period of the tenancy, a written note of why she thinks it is not reasonable for the Tribunal to grant an order for eviction and a List of Witnesses she intends to call at the Hearing. The Respondent was to lodge this by 30th May 2024. On 30th April 2024 the Applicant's solicitor lodged documentation to comply with the Direction. This was sent to the Respondent by email on 2nd May 2024. The Respondent did not lodge any documentation to comply with the Direction.

11. On 10th July 2024 the Applicant's solicitor lodged an affidavit by the Applicant and an updated rent statement showing arrears of £12,550.

Hearing

12. The Hearing took place in person. The Applicant was present, and was represented by Mr McDermott of Friels, Solicitors. The Respondent represented herself.
13. Mr McDermott said that the Applicant was seeking an order for eviction based on Grounds 8A, 11 and 12 of the Housing (Scotland) Act 1988. He said that an updated rent statement had been lodged and that the arrears now stood at £12,550, which was just over two years' rent. The rent in the tenancy agreement was £490 per month, reduced to £470 per month in June 2020.
14. The Respondent said she did not agree with the amount of rent arrears, but she thought she owed around £3000. She was not opposed to the order being granted and wanted to leave as soon as she could.
15. The Respondent said that the property has three bedrooms. She lives alone in the property. She receives housing benefit for a single person which does not cover all of the rent.

Findings In Fact

- i. The parties entered in to a Short Assured Tenancy with the Agreement dated 1st February 2017 and initially running from 1st February 2017 to 1st August 2018 and monthly thereafter, and with monthly rent of £490;
- ii. The rent was reduced to £470 in June 2020;

- iii. AT6 Notice dated 28th March 2023 was served on the Respondent;
- iv. Notice to Quit dated 28th March 2023 to leave by 1st June 2023 was served on the Respondent;
- v. A Section 11 Notice was served on the local authority;
- vi. The Respondent had rent arrears at the date the notice was served and at the date that proceedings were raised;
- vii. The Respondent currently has arrears in excess of six months' payments of rent.

Reasons For Decision

16. The Applicant established Grounds 8A, 11 and 12 by provision of the rent statement. The Tribunal decided that it was reasonable to grant the order as the Respondent was clear that she did not oppose it and wanted to leave as soon as possible.

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.

Alison J Kelly

29th July 2024

Legal Member/Chair

Date