

Housing and Property Chamber
First-tier Tribunal for Scotland



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 (Act)

Chamber Ref: FTS/HPC/EV/24/3855

Re: Property at 45 Craigie Street, Dundee, DD4 6PE (“the Property”)

Parties:

Mr Shui Fong Lee, Ms Yuk Lan Lee, 8 Westport, Dundee, DD1 5EP (“the Applicant”)

Ms Anne Beattie, 45 Craigie Street, Dundee, DD4 6PE (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

This is an application under section 18(1) of the Act and Rule 65 of the Procedure Rules for eviction and recovery of possession on the basis of grounds 11 and 12 of Schedule 5 to the Act.

The following documents were considered by the Tribunal:

1. Application received 21 August 2024;
2. AT5 dated 11 and 15 August 2016;
3. Short Assured Tenancy Agreement (**SAT**) dated 15 August 2016;
4. AT6 dated 25 April 2024 setting out grounds 11 and 12;
5. Pre Action Correspondence;
6. Royal Mail Track and Trace Receipt for Notice to Quit and AT6 dated 25 April 2024;
7. Section 11 Notice and email serving on local authority dated 21 August 2024;

8. Schedule of Rent Arrears at 14 August 2024;
9. Certificate of Service of CMD Notification on Respondent by Sheriff Officers dated 13 March 2025.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 16 April 2025. The Applicants did not participate but were represented by their Solicitor, Mr Lawson. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate. The Respondent did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that she should attend and the Tribunal could determine the matter in absence if she did not.

The Applicants' Solicitor asked the Tribunal to deal with the matter on the basis of the documentation before it. He drew attention to the fact that the arrears were now £13,513.18 and that the Respondent had not paid any rent since 15 August 2023. The Applicants only let this Property with the Letting Agents. Beyond that Mr Lawson did not have any further information about the Applicants.

In so far as Mr Lawson was aware the Respondent lived in this Property alone, was not in receipt of benefits and still resided in the Property. Items of Property were present in the Property and the keys had not been returned.

The Tribunal then considered the documentary evidence it had received from the Applicant and in so far as material made the following findings in fact:

1. The Parties let the subjects under an SAT dated 15 August 2016;
2. An AT5 had been served on the Respondent prior to commencement of the SAT;
3. AT6 had been served on 25 April 2024;
4. Section 11 Notice had been served on the local authority;
5. Monthly rent was £660;
6. As at the date of service of the AT6 there was £6,253.18 rent due;
7. As at the date of lodging the application £8,233.14 rent was due;
8. As at the date of the CMD there was £13,513.18 rent due;
9. Pre Action correspondence had been issued to the Respondent.

The Tribunal considered and accepted the documentary evidence of the Applicants which was, in any event, uncontested. The Tribunal considered that it had sufficient information upon which to make a Decision and that the procedure was fair. Grounds 11 and 12 provide:

Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due.

Ground 12

Some rent lawfully due from the tenant—

(a) is unpaid on the date on which the proceedings for possession are begun; and

(b) except where subsection (1)(b) of section 19 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.

The Tribunal considered the relevant tests for Grounds 11 and 12 to be satisfied. The Respondent had persistently delayed paying rent, rent was due when the AT6 was served, when proceedings were raised and at the date of the CMD.

Despite Grounds 11 and 12 having been satisfied the Tribunal still had to consider whether or not it was reasonable to grant the eviction order in the circumstances.

The Tribunal had no evidence from the Respondent or information to suggest it would be unreasonable to grant the order. The Tribunal was accordingly satisfied that it was reasonable and that the order should be granted as sought.

In granting the order the Tribunal was satisfied that the decision was in accordance with the overriding objective.

Outcome

- **Order for eviction and recovery of possession 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.

Alan Strain

16 April 2025

Legal Member/Chair

Date