



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/19/0054

Re: Property at 179 Inverary Avenue, Glenrothes, KY7 4QS (“the Property”)

Parties:

Mrs Gillian Stewart, 5 Queen Street, Dunshalt, Cupar, Fife, KY14 7HD (“the Applicant”)

Miss Erin Innes, 179 Inverary Avenue, Glenrothes, KY7 4QS (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for possession of the property and the ejection of the Respondent from the property.

Background

1. By application dated 8 January 2019 the Applicant applied to the Tribunal for an order for possession of the property and the ejection of the Respondent from the property on Grounds 8, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988. The Applicant provided the Tribunal with copies of the Tenancy Agreement, Notice to Quit, AT6, Sheriff Officers Execution of Service, Rent Statement, Section 11 form and email to Local Authority intimating S11 form.
2. By Notice of Acceptance dated 23 January 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.

3. Intimation of the Case Management Discussion was given to the Applicant's representative on 29 January 2019 and to the Respondent by Sheriff Officers on 18 February 2019.

Case Management Discussion

4. The Case Management discussion was held on 11 March 2019 at Fife Voluntary Action, 16 East Fergus Place, Kirkcaldy. The applicant was represented by Ms Kirsty Morrison of T C Young, solicitors Glasgow. The Respondent did not appear nor was she represented.
5. Ms Morrison explained there had been two previous applications to the Tribunal by the Applicant that had been refused. In a previous application the Applicant's husband from whom the Applicant was separated and who was not an owner of the property but had been a party to the tenancy agreement had confirmed he had no interest in the proceedings. Ms Morrison referred the Tribunal to the Tribunal's earlier decision.
6. Ms Morrison confirmed that rent arrears had started to accrue in 2015 and had continued through 2016 with no rent at all having been paid by the Respondent in 2017 or 2018 or currently. The rent due at the commencement of proceedings was £18309.00. The applicant was not seeking an order for payment.
7. Ms Morrison confirmed that a Notice to Quit and Form AT6 had been served on the Respondent by Sheriff Officers on 16 October 2018 and that a Section 11 Notice had been intimated to the local Authority on 8 January 2019.
8. Ms Morrison asked the Tribunal to grant the order sought.

Findings in Fact

9. The parties entered into a Short Assured Tenancy Agreement that commenced on 14 December 2011 until 15 June 2012 and on a month to month basis thereafter.
10. Sheriff Officers served Form AT6 and a Notice to Quit on the Respondent on 16 October 2018.
11. The Applicant's representatives intimated a Section 11 Notice to the Local authority on 8 January 2019.
12. At the date of service of the Form AT6 and at the date of the Case Management discussion the Respondent was in arrears of rent of at least three months.
13. At the date of commencement of these proceedings the Respondent was in arrears of rent in the sum of £18309.00. The Respondent has paid no rent since December 2016.

Reasons for Decision

14. The Tribunal was satisfied that the Applicant's husband although nominally a co-landlord with the Applicant had no interest in the proceedings and was not an owner of the property.
15. The Respondent had paid no rent since December 2016 a period of more than two years and had accrued rent arrears of £18309.00. the Notice to Quit and Form AT6 had been properly served by Sheriff Officers. The Section 11 Notice had been properly intimated to the local authority.
16. The Tribunal was therefore satisfied that the statutory requirements of Section 18 of the Housing (Scotland) Act 1988 having been met the Applicant was entitled to the order sought.

Decision

17. The Applicant is entitled to an order against the Respondent for possession of the property and for the ejection of the Respondent from 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.

G Harding

Legal Member/Chair

11 March 2019

Date