

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/19/0763

Re: Property at 30 Cowal Place, Dunoon, PA23 7PU ("the Property")

Parties:

Mr Randall Taylor, c/o Blair and Bryden Solicitors, 20A Union Street, Greenock, PA16 8JL ("the Applicant")

Ms Mandy Lacey, 30 Cowal Place, Dunoon, PA23 7PU ("the Respondent")

Tribunal Members:

Alan Strain (Legal 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/recovery of possession be granted.

Background

This is an application for recovery of possession/eviction in respect of an assured tenancy under Rule 65 and Grounds 8, 11 and 12 to Schedule 5 of the Act.

The Tribunal had regard to the following documents:

1. Application received 8 March 2019;
2. Assured Tenancy dated 27 March 2017;
3. Notice to Quit dated 8 February 2019;
4. AT6 dated 30 January 2019;
5. Certificate of Service of AT6 dated 5 February 2019;
6. Certificate of Service of Notice to Quit dated 13 February 2019;
7. Statement of Arrears;
8. Section 11 Notice.

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Case Management Discussion (CMD)

The case called for a CMD on 10 July 2019. The Applicant was not present but was represented by Ms Black (Solicitor). The Respondent was not present nor was she represented.

The Tribunal were satisfied that the Respondent had been served with the notification of the CMD by Sheriff Officers on 7 June 2019. The Respondent was aware that the Tribunal could determine the matter if satisfied that it had sufficient information and it was fair to do so.

The Tribunal accordingly considered the evidence before it. It was clear that there were over 12 months' rent in arrears. The AT6 did not give the statutory 14 day period of notice required by section 19(3) of the Act. Section 19(1)(b) enabled the Tribunal to dispense with the requirements of the notice but not in circumstances where Ground 8 was relied upon (Section 19(5)).

Having raised the issue Ms Black withdrew the application under Ground 8 and insisted upon Grounds 11 and 12. That being the case the Tribunal considered the position and dispensed with the notice requirements under Section 19(1)(b) as it considered it reasonable to do so.

The Tribunal then considered the application on Grounds 11 and 12 alone.

The Tribunal made the following findings in fact:

1. The Parties entered in to an assured tenancy commencing 27 March 2017;
2. Monthly rent was £500;
3. As at the date of the CMD the rent was in arrears to the sum of £6,150 which was over 12 months arrears;
4. The Respondent had persistently delayed paying rent;
5. Rent was due at the start of the present proceedings and at the time of serving the AT6;
6. Failure or delay in paying rent was not due to any failure or delay in respect of any relevant benefit.

In light of the above findings in fact the Tribunal determined that Grounds 11 and 12 were established. These are discretionary grounds and the Tribunal considered it reasonable to exercise its discretion given the considerable rent arrears and absent any explanation to grant the order sought.

The Tribunal granted the order for eviction/recovery of possession.

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

Legal Member/Chair

10 July 2019
Date