

**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/19/0829

**Re: Property at 6 Melbourne Street, Craigshill, Livingston, EH54 5HW (“the
Property”)**

Parties:

**Miss Claire O'Neill, 6 Elm Grove, Livingston, West Lothian, EH54 5JR (“the
Applicant”)**

**Ms Jacqueline O'Neill, 6 Melbourne Street, Craigshill, Livingston, EH54 5HW
 (“the Respondent”)**

Tribunal Members:

Yvonne McKenna (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for possession of the Property should be
made in terms of section 18 of the Housing (Scotland) Act 1988**

BACKGROUND

The Applicant sought recovery of possession of the Property in terms of Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act “). The Applicant had lodged with the Tribunal the Form E. The documents produced were a Tenancy Agreement dated 28/02/2010; Copy form AT6; Copy Notice to the Local Authority under section 19A (1) of the 1988 Act; copy rent book; copy Notice to Quit and copy execution of service of the Notice to Quit and AT6 dated 18th January 2019 by sheriff officers .A copy title sheet obtained by the Tribunal showed that the Applicant held title to the Property.

The case had called previously as a Case Management Discussion (CMD) on 7th May 2019. The CMD was continued to today’s date in order that further information could be provided to the Tribunal in relation to the execution of service by Sheriff Officers of the AT6 – a copy of the same and secondly in order that clarification could be provided in relation to the Respondent’s benefits position.

CASE MANAGEMENT DISCUSSION

A CMD was held on 21st June 2019 at 2.00 pm. This was at George House, George Street, Edinburgh. The Applicant was present. The Respondent was not present today. She was held up in traffic and arrived approximately twenty minutes after the CMD had ended. The Applicant confirmed that the arrears of rent as at today's date were £2356.94. She said that the arrears due at the date of service of the AT6 were £2356.94. Information had been provided by the Benefits Agency that the Respondent has made a claim for benefits and that Housing Benefit was being paid at the rate of £425 per month. The arrears however were still outstanding. The Respondent had accepted at the last CMD that these figures reflected in the Applicant's rent account were correct.

FINDINGS IN FACT

1. The Applicant and the Respondent had entered into a Tenancy Agreement for the Property dated 28th February 2010.
2. The period of the Lease was from 28th February 2010 for a 6 month period until 28th August 2010 and thereafter the lease continued by tacit relocation.
3. The rent in terms of the Tenancy Agreement was £440 every 4 weeks.
4. A form AT6 dated 16th January 2019 was served on the Respondent on by sheriff officer.
5. A Notice to Quit was served on the same date bringing the tenancy to an end on the 28th February 2019.
6. An application was made to the Tribunal on 12th March 2019.
7. The Applicant sought recovery of possession of the Property on Grounds 8, 11 and 12.
8. The Respondent had failed to make payment of rent due. The total outstanding at the date of the CMD was £2356.94. Similarly at the date of service of the AT6 the amount due was the same.
9. At the date of service of the AT6 and at the date of making this application and as at today's date there was at least 3 months' rent lawfully due in arrears. The basis for possession set out in Ground 8 of Schedule 5 to the 1988 Act was established.
10. Notice of the CMD had been given to the Respondent by letter dated 17th May 2019.

REASONS FOR DECISION

The Tribunal determined to make an Order for possession of the Property in terms of Section 18 of the 1988 Act. The basis for possession set out in grounds 8, 11 and 12 of Schedule 5 to the 1988 Act had been established. Ground 8 is a "mandatory" ground. For these reasons, the Tribunal determined to grant an Order for possession. The AT6 had been served on the Respondent along with the Notice to Quit and had provided for the requisite period of notice. This Application had been made within a period of 6 months after the service of the AT6.

DECISION

For the foregoing reasons, the Tribunal determined to make an Order for 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.

Y McKenna



Legal Member/Chair

21/06/19

Date