



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 ('the Act')

Chamber Ref: FTS/HPC/EV/19/1003

Re: Property Flat 3/2, 49 Aberfoyle Street, Glasgow G31 3RP ('the Property')

PARTIES:

Mrs Mary Michie, Old Manse, Onich PH33 6RY ('the Applicant')

Represented by:

Mr Don Michie, Old Manse, Onich PH33 6RY

Mr John Leask, previously residing at Flat 3/2, 49 Aberfoyle Street, Glasgow G31 3RP, present whereabouts Unknown ('the Respondent')

Tribunal:

Joseph C Hughes (Legal Member)

Michael Colquhoun (Clerk of Tribunal)

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

By Application dated 30th March 2019 and received on 1st April 2019, the Applicant sought an Order for Possession of the property and the ejection of the Respondent in terms of Section 18 of the Housing (Scotland) Act 1988 ('the 1988 Act') on the grounds that the Respondent has persistently delayed paying rent and some rent is unpaid at the start of court proceedings and at the time of serving the notice of proceedings all in terms of Grounds 11 and 12 of Schedule 5 of the 1988 Act.

The Application was lodged in terms of Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

The Tribunal had before it:

- (a) The Application (Form E), dated 30th March 2019;
- (b) Copy Form AT6 dated 11th March 2019, served by Sheriff Officers;
- (c) Sheriff Officers Certificate of Intimation of (b) dated 13th March 2019;
- (d) Short Assured Tenancy Agreement dated 16th May 2017;
- (e) Section 11 Local Authority Notice, dated 30th March 2019;
- (f) Schedule of Rent Payments;
- (g) Correspondence in respect of attempts to locate Tenant;
- (h) Request for Service by Advertisement dated 16th April 19;
- (i) Certificate of Service by Advertisement dated 16th July 2019.

The Application was accepted by the Tribunal and referred for determination by the Tribunal.

A Case Management Discussion (CMD) took place on 16th July 2019 at 10am within Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. Appropriate intimation of that CMD was given to both parties. Intimation to the Respondent was made by Service by Advertisement.

The Applicant's representative attended the CMD by conference call. Mr Michie stated that the last payment of rent was received on 21st December 2018. The whereabouts of the Respondent was unknown. The Applicant has not been able to communicate with the Respondent this year.

The Tribunal is invited to grant the Order for Eviction as sought in the Application.

FINDINGS IN FACT

- (i) The Applicant and the Respondent are respectively the Landlord and Tenant. They entered into a tenancy agreement for the property on 16th May 2017;
- (ii) The Tenancy was a Short Assured Tenancy;
- (iii) The rent was £500 per calendar month payable monthly in advance;
- (iv) Rent arrears existed continuously from the date of service of the Form AT6;
- (v) Rent arrears (within a rent statement) as at 20th March 2019 was £1500. The arrears have continued to grow since then as the Respondent has paid no further rent;

- (vi) Rent lawfully due to the Applicant, all in terms of the agreement between the parties, has not been paid by the Respondent. No rent has been paid since 21st December 2018;
- (vii) The Respondent has consistently delayed in paying rent. The Respondent has left the property and his whereabouts is unknown.

REASONS FOR DECISION

The Tribunal was satisfied that the Respondent has consistently delayed in paying rent. He has paid no rent since 21st December 2018. Grounds 11 and 12 are discretionary grounds. The Tribunal considered all the evidence before it and determined that the eviction order should be granted given the Respondent's persistent failure to pay rent under Ground 11 and the fact that rent was due when the AT6 was served and as at the date proceedings commenced all in terms of Ground 12.

The Tribunal accordingly grants the Order for recovery of possession/eviction.

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.

Joseph C Hughes

Legal Member
Housing Property Chamber

Date: 16th July 2019