



Decision 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/20/1341

Re: Property at 1 Sidlaw Place, Coupar Angus, PH13 9EL (“the Property”)

Parties:

Mr Paul Bate, 3D Fleming Gardens South, Dundee, DD3 7NE (“the Applicant”)

Mr Ewan Grant, Ms Paisley Campbell, 8 Hay Street, Coupar Angus, PH13 9BL (“the Respondents”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession should be granted against the Respondents.

Background

1. This is an application for an order for possession under Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The application was dated 24th March 2020. The Applicant has lodged copy notice to quit and Form AT6, a rental statement, bank statements, and landlord payment notifications. The tenancy agreement is not available. It commenced on 22nd November 2016 for a period of six months and monthly thereafter. The order is sought under grounds 8 and 11 of the Housing (Scotland) Act 1988 (“the Act”).
2. A Case Management Discussion (“CMD”) took place by telephone conference on 14th September 2020. Prior to the CMD, it had been suggested that the Respondents may be living at a new address. The Respondents were not in attendance. The CMD was continued for intimation upon the Respondents at the Property and at the new address.
3. Intimation was made by Sheriff Officers upon the Respondents on 26th October 2020.

Case Management Discussion

4. A CMD took place by telephone conference on 26th November 2020. The Applicant was not in attendance and was represented by Mr Jay Lawson, Solicitor. Commencement of the CMD was delayed to allow the Respondents to attend. The Respondents did not attend.
5. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondents had been given reasonable notice of the time and date of the CMD and that the requirements of Rule 17(2) had been satisfied and it was appropriate to proceed with the application in the absence of the Respondents.
6. Mr Lawson moved for an order for possession on the basis that Grounds 8 and 11 had been met, and the requisite notices had been served. Although it is thought that the Respondents are living at a new address, no notification of this has been made to the Applicant, and the keys to the Property have not been returned, despite repeated requests made and correspondence sent to the Respondents by the Applicant's representative. The last statement of arrears provided to the Tribunal and served on the Respondents showed the sum of £7418.13 outstanding to 22nd September 2020. The sum is still outstanding and no further rent has been paid since that date.

Findings in Fact

7. (i) Parties entered into an assured tenancy agreement in respect of the Property on 22nd November 2016 for a period of six months and monthly thereafter.
 - (ii) The rent was £525 per month.
 - (iii) Notice to Quit and Form AT6 were served upon the Respondents by Recorded Delivery on 29th January 2020. The notices were signed for by the Respondents on 30th January 2020.
 - (iv) The Notice to Quit terminated the contractual tenancy on 22nd March 2020.
 - (v) Form 11 was served upon the Local Authority on 24th March 2020.
 - (vi) As at the date of service of the Form AT6 there was in excess of three month's rent outstanding.
 - (vii) As at the date of the CMD there was in excess of three month's rent outstanding.
 - (viii) There was no evidence before the Tribunal that the arrears of rent were due to a delay or failure in the payment of a relevant benefit.

Reasons for Decision

8. The Tribunal was satisfied that Ground 8 was established and that the rent was not outstanding as a consequence of a delay or failure in the payment of a relevant benefit. Ground 8 is a mandatory ground. The Tribunal had no option but to grant the order sought. The Tribunal did not require to make any findings in relation to Ground 11, given its determination in relation to Ground 8.

Decision

9. An order for possession of the Property is granted against the Respondents. The order is not to be executed prior to 12 noon on 26th December 2020.

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.

Helen Forbes

Legal Member/Chair

26th November 2020

Date