



**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/19/1415

Re: Property at 8 Woodburn Place, Edinburgh, EH22 2HZ (“the Property”)

Parties:

**Mr Umar Hayat, Mrs Saeema Yaqoob Hayat, 26 Duddingston View, Edinburgh,
EH15 3LX (“the Applicant”)**

**Miss Joanna Barbara Stypczynska, Mr Pawel Ploszynski, 8 Woodburn Place,
Dalkeith, Edinburgh, EH22 2HZ; 8 Woodburn Place, Dalkeith, Edinburgh, EH22
2HZ (“the Respondent”)**

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

- This matter called for a Case Management Discussion on 27 September 2019 at 10 am in George House, 126 George Street, Edinburgh.
- The Second Applicant, Ms Saeema Yaqoob Hayat was present and was represented by Mr Fergus MacMillan, solicitor. Both Respondents were present together with an interpreter, who interpreted the entirety of the Tribunal proceedings into Polish for the Respondents and who similarly interpreted what the Respondents said into English for the Tribunal.
- The Respondents were unrepresented. The Tribunal was satisfied that they had been given ample time to find representation if they wished and indeed a previous Case Management Discussion had been adjourned, in part, for this purpose. No mention was made by the Respondents of any desire to secure further time for legal representation.
- The Applicants had served a Notice to Quit and Form AT6 separately on both Respondents on 20 March 2019 setting out that an Application for an Eviction Order would be made in respect of Grounds 11 and 12 of Schedule 5 of the

Housing (Scotland) Act 1988 ("The Act"). These provided the Respondents with the requisite notice period of an intention to make an Application for an Eviction Order.

- These Grounds are discretionary grounds: that is, even if they are established, the Tribunal may grant an Eviction Order only if it is reasonable to do so.
- The Respondents accepted that their current rental arrears were £5,250.00 and their monthly rent was £725.00 per month and so it was apparent that there was no dispute about the facts of the Application. The only issue the Tribunal had to consider, on the basis that these Grounds are discretionary, was whether it was reasonable to grant the Eviction Order.
- The Tribunal considered whether a decision could be reached on such a matter today at a Case Management Hearing or whether such a discretionary matter should only be considered by a full Tribunal sitting at a Hearing.
- In considering this, the Tribunal noted that at a previous Case Management Discussion, a Direction had been made obliging the Respondents to set out their position in writing at least 14 days in advance of the Hearing. They had failed to do so. The Tribunal noted that no cogent reason was provided by the Respondents as to why they had not complied with this Direction. The Tribunal proceeded to hear representations from parties regarding the issue of the reasonableness of granting the Eviction Order. The Respondents confirmed that they had a nine week old baby and were intending to move out as soon as possible in any event. They informed the Tribunal that they were on the "gold priority list" of the local authority in respect of finding new accommodation. They further advised that they wanted to clear the arrears and spoke of the First Respondent, who had a baby nine weeks ago, returning to work and receiving back dated maternity pay and child benefit that would settle the rent arrears.
- The Tribunal noted though that the Respondents had not been able to pay the contractual monthly rent, never mind any contribution to the arrears, for some time. The Respondents representations were regrettably sufficiently vague and uncertain that they could not be said to amount to a meaningful defence.
- In light of this and the failure by the Respondents to lodge any defence in writing to the Application as directed, the Tribunal considered that it was in the interests of justice that this matter be decided today.
- After providing all parties with a full opportunity to make any representations, the Tribunal adjourned to consider its decision.
- The Tribunal granted the Eviction Order as sought. Grounds 11 and 12 of the Act were established and it was reasonable to grant the order. There was no meaningful prospect of the rent arrears being reduced. The Respondents themselves were actively looking to move house and so any impact on their family life of an Eviction Order had to be considered in that context. The rent arrears were so significant in respect of the monthly rent that there seemed no prospect of these being settled. The Respondents had no meaningful defence to the Application other than to state that they wanted some time to organise their relocation. It was reasonable for the Eviction Order to be made.

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.

A McLaughlin

Legal Member/Chair

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Date

27/9/19