



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/19/1427

Re: Property at 96A Mary Street, Falkirk, FK2 9PS (“the Property”)

Parties:

Punch Partnerships (PML) Ltd, Punch Taverns PLC, Jubilee House, 2nd Ave, Burton On Trent, DE14 2WF (“the Applicant”)

Mr Steven Anderson, 96A Mary Street, Falkirk, FK2 9PS (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants were entitled to an order for possession and the ejection of the Respondent from the property.

Background

1. By application dated 13 May 2019 the Applicants applied to the Tribunal for an order for possession of the property and the ejection of the Respondent from the property in terms of Grounds 8, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicants provided the Tribunal with a copy of the Tenancy Agreement, Form AT6, Notice to Quit, Proof of posting and Section 11 Notice. The Applicant’s representatives Lind Letting Limited subsequently provided the Tribunal with a rent statement showing the level of alleged rent arrears.
2. By Notice of Acceptance dated 3 June 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.

3. Intimation of the Case Management Discussion was given to the Applicant's representatives by post on 10 June 2019 and to the Respondent by Sheriff Officers on 12 June 2019.
4. By email dated 11 July the Applicant's representative Mr Barry Lind explained he was unable to attend the Case Management discussion on 16 July but wished it to proceed. He indicated the rent arrears had increased to £5680.00.

The Case Management Discussion

5. The Case Management Discussion took place at Wallace House Stirling on 16 July 2019. Neither party was in attendance but the Applicant's representative was in contact by telephone. Mr Lind confirmed that the Respondent had not paid any rent for many months. Some housing benefit payments had been received. The total amount of rent outstanding was £5680.00. Ground 8 of Schedule 5 of the 1988 Act was therefore satisfied. Mr Lind asked the Tribunal to grant the order.

Findings in Fact

6. The parties entered into a Short Assured Tenancy that commenced on 8 February 2017 and endured until 8 August 2017 and continued on a month to month basis thereafter. The monthly rent was £500.00.
7. As at 24 December 2018 the Respondent had accrued rent arrears of £4680.00.
8. As at 11 July 2019 the rent arrears had increased to £5680.00
9. The Applicants representatives served a Form AT6 on the Respondent by recorded delivery post sent on 24 April 2019 and delivered on 26 April 2019.
10. The Applicants representatives sent a S11 Notice to Falkirk Council in advance of submitting an application to the Tribunal.
11. As at the date of service of Form AT6 and at the date of the Case Management discussion more than 3 months' rent was due by the Respondent to the Applicants.

Reasons for Decision

12. The Tribunal was satisfied that the parties had entered into a Short Assured Tenancy and that the prescribed Notices to terminate the Tenancy and seek possession in terms of the 1988 Act had been served on the Respondent.
13. The Tribunal was also satisfied from the documents and information provided by the Applicant's representative Mr Lind that both at the date of serving Form AT6 and at the Case Management Discussion the Respondent owed more than three months rent therefore the terms of ground 8 of Schedule 5 were

satisfied and that was a mandatory ground for granting the Applicants possession of the property and the ejection of the Respondent from the property. As ground 8 was satisfied it was not necessary for the Tribunal to consider grounds 11 and 12 but from the evidence provided it was likely that these grounds would also have been satisfied.

Decision

14. The Tribunal finds the Applicants entitled to an order for possession of the property and for the ejection of the Respondent from the property.

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.

Graham Harding

Legal Member/Chair

Date

16 July 2019