

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/19/1731

Re: Property at 17/2 Murdoch Terrace, Edinburgh, EH11 1BD (“the Property”)

Parties:

Mr John Laird, 6 Craigmount Loan, Edinburgh, EH12 8DL (“the Applicant”)

Ms Nicola Brims, 17/2 Murdoch Terrace, Edinburgh, EH11 1BD (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be determined without a hearing and granted an Order for Possession of the Property

Background

By application, received by the Tribunal on 5 June 2019, the Applicant sought an Order for Possession under Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Grounds for Possession relied on were Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act.

The application was accompanied by copies of a Tenancy Agreement between the Parties, commencing on 20 November 2015, a Form AT6 Notice, given under Section 19 of the 1988 Act and a Notice to Quit. Both Notices were dated 29 April 2019 and were served on 1 May 2019. The Notice to Quit required the Respondent to vacate the Property by 28 May 2019 and the Form AT6 Notice advised the Respondent that proceedings for possession would not be raised before that date.

On 9 July 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 21 July 2019. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the morning of 9 August 2019. The Applicant was represented by Miss Jacqui Ridley of Blacklocks, solicitors, Edinburgh. The Respondent was not present or represented, having advised the Tribunal by telephone that she would not be

attending. The Applicant's representative told the Tribunal that no payments of rent had been received since the date of service of the Form AT6 Notice and asked the Tribunal to grant the Order for Possession without a hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would determine the application without a hearing.

Section 18 of the 1988 Act provides that the Tribunal shall not make an Order for Possession of a house let on an Assured Tenancy except on one or more of the Grounds set out in Schedule 5 to the 1988 Act and that the Tribunal shall make an Order if satisfied that any of the Grounds in Part 1 of Schedule 5 is established. Ground 8 of Part 1 of Schedule 5 states that the Tribunal must make an Order for Possession where, both at the date of service of the Notice given under Section 19 of the 1988 Act (the Form AT6 Notice) and at the date of the hearing, at least three months' rent lawfully due from the tenant is in arrears.

The Tribunal was satisfied that the arrears of rent lawfully due from the Respondent as at the date of service of the Form AT6 Notice (1 May 2019) and at the date of the Case Management Discussion exceeded three months. The requirements of Section 18 had, therefore, been met and the Tribunal was bound to grant an Order for Possession of the Property.

Having determined the application under Ground 8 of Schedule 5 to the 1988 Act, it was not necessary for the Tribunal to consider the application under Grounds 11 and 12 of Schedule 5.

Decision

The Tribunal determined that the application should be determined without a hearing and granted an Order for Possession of 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.

GC

Legal Member/Chair

9 August 2019

Date