



**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/18/1813

Re: Property at 34 Gateside, Girdle Toll, Irvine, KA11 1BL (“the Property”)

Parties:

Miss Nicola Page, 8 School Road, Great Yarmouth, Norfolk, NR30 1LB (“the Applicant”)

Mrs Elizabeth Stewart, 34 Gateside, Girdle Toll, Irvine, KA11 1BL (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision

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

Background

This is an application dated 15th July 2018 brought in terms of Rule 65 (Application for order for possession in relation to assured tenancies) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant provided with her application copies of the short assured tenancy agreement, notice to quit, section 19 notice (form AT6), section 11 notice, and various bank statements and correspondence between the parties by text and e-mail. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The form AT6 intimated to the tenant that the landlord intended to raise proceedings for possession of the house on grounds 8 and 11 of Schedule 5 to the *Housing (Scotland) Act 1988*.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 20th November 2018, and I was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held on 12th December 2018 at Ardrossan Civic Centre, Glasgow Street, Ardrossan. The Applicant appeared, but was not represented. The Respondent also appeared, but was not represented.

I was invited by the Applicant with reference to the application and papers to grant the order sought on grounds 8 and 11 of Schedule 5 to the *Housing (Scotland) Act 1988*.

The form AT6 dated 25th June 2018 narrated that rent arrears at that time amounted to £3,220.00. The monthly rent for the property is £460.00. The Respondent agreed that this rental arrears figure was correct, and confirmed that this figure has since increased to a figure due now of a little over £4,000.

The Respondent confirmed that for this reason she was not in a position to oppose the granting of an eviction order.

Statement of Reasons

In terms of Section 18(3) of the *Housing (Scotland) Act 1988* ("the Act"), if the Tribunal is satisfied that any of the grounds in Part I of Schedule 5 to the Act is established then, subject to subsections (3A) and (6), the Tribunal shall make an order for possession.

Section 18(3A) of the Act provides that if the First-tier Tribunal is satisfied (a) that Ground 8 in Part I of Schedule 5 to this Act is established; and (b) that rent is in arrears as mentioned in that Ground as a consequence of a delay or failure in the payment of relevant housing benefit or relevant universal credit, the Tribunal shall not make an order for possession unless the Tribunal considers it reasonable to do so.

Section 18(6) of the Act provides that the First-tier Tribunal shall not make an order for possession of a house which is for the time being let on an assured tenancy, not being a statutory assured tenancy, unless (a) the ground for possession is Ground 2 or Ground 8 in Part I of Schedule 5 to this Act or any of the grounds in Part II of that Schedule, other than Ground 9, Ground 10, Ground 15 or Ground 17; and (b) the terms of the tenancy make provision for it to be brought to an end on the ground in question.

The Tribunal is satisfied that ground 8 contained in Part 1 of Schedule 5 to the Act has been established. The Tribunal has not been satisfied that rent is in arrears as a consequence of a delay or failure in the payment of relevant housing benefit or

relevant universal credit. There has been no evidence to establish any such reason for rent arrears.

In terms of Section 18(4) of the Act, if the Tribunal is satisfied that any of the grounds in Part II of Schedule 5 to this Act is established, the Tribunal shall not make an order for possession unless the Tribunal considers it reasonable to do so.

Section 18(4A) of the Act provides that in considering for the purposes of subsection (4) above whether it is reasonable to make an order for possession on Ground 11 or 12 in Part II of Schedule 5 to this Act, the First-tier Tribunal shall have regard, in particular, to the extent to which any delay or failure to pay rent taken into account by the Tribunal in determining that the Ground is established is or was a consequence of a delay or failure in the payment of relevant housing benefit or relevant universal credit.

The Tribunal is satisfied that ground 11 contained in Part 2 of Schedule 5 to the Act has been established, and considers that it is reasonable to make an order for possession. The Tribunal has not been satisfied that rent is in arrears as a consequence of a delay or failure in the payment of relevant housing benefit or relevant universal credit. There has been no evidence to establish any such reason for rent arrears.

For the above reasons, the Tribunal shall make an order for possession.

Decision

In these circumstances, I will make an order for possession of the house let on the tenancy as sought in this application.

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.

N Kinnear

Legal Member/Chair

12/12/18

Date