



**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/19/1982

Re: Property at 7 Finedon Terrace, Dundee, DD4 9EF (“the Property”)

Parties:

**Mr William Stewart, Mrs Margaret Stewart, Claypotts Cossans, Glamis, Forfar,
DD8 1QE (“the Applicants”)**

**Mr Darren Smith, Ms Louise McComiskey, 7 Finedon Terrace, Dundee, DD4
9EF (“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 of the property and the ejection of the Respondents from the
property.**

Background

1. By Application dated 25 June 2019 the Applicants applied to the Tribunal for an order for the possession of the property and the ejection of the Respondents from the property on the grounds that the Respondents had accrued arrears of rent amounting to £5210.64 as at 1 June 2019. The Applicants provided the Tribunal with a copy of the Tenancy Agreement, Forms AT6 with Sheriff Officers Executions of Service, Section 11 Notice and a rent statement in support of their application.
2. By notice of Acceptance dated 11 July 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 Applicants by post on 22 July 2019 and to the Respondents by Sheriff Officers on 23 July 2019.

The Case Management Discussion

4. A Case Management Discussion was held at Dundee Carers Centre, Seagate House, 132-134 Seagate, Dundee on 29 August 2019. The applicants attended personally. The Respondents did not attend nor were they represented. The Tribunal being satisfied that intimation of the Case Management Discussion having been properly given to the Respondents determined to proceed in their absence in accordance with Rule 29 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Rules").
5. The Applicants confirmed that the parties entered into a Short Assured Tenancy Agreement that commenced on 1 June 2017 for a period of six months until 2 December 2019 and from month to month thereafter at a monthly rent of £550.00 per Calendar month. Mrs Stewart provided the Tribunal with a current rent statement that showed the rent due as at 27 August 2019 as £5295.00 Mrs Stewart explained that the Respondents were in receipt of universal credit but were not making any additional payments towards the balance of the rent due themselves. The Respondents had made offers to pay but no payments had been forthcoming.
6. The Applicants referred the Tribunal to the Forms AT6 and the Sheriff Officers Executions of Service and confirmed that they were seeking possession on grounds 8, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988 ("the 1988 Act"). The Respondents were in arrears of rent of £5295.00. At the time of service of Form AT6 the arrears were £5210.64. The arrears were increasing.
7. The Applicants confirmed the Section 11 Notice had been sent to Dundee City Council by email at the same time as the application was made to the Tribunal.
8. The Applicants asked the Tribunal to grant the order for possession and ejection of the Respondents from the property.

Findings in Fact

9. The parties entered into a Short Assured Tenancy Agreement that commenced on 1 June 2017 at a rent of £550.00 per calendar month.
10. As at 27 August 2019 the Respondents had accrued rent arrears amounting to £5295.00.
11. Forms AT6 were served on the Respondents by Sheriff Officers on 6 June 2019.

12. More than 3 months' rent was due by the Respondents both at the date of service of the Forms AT6 and at the date of the Case management discussion.
13. The Respondents have persistently delayed paying rent.
14. The Applicants sent a Section 11 Notice to Dundee City Council at the commencement of these proceedings.

Reasons for Decision

15. The Tribunal was satisfied from the documents provided by the Applicants that the parties had entered into a Short Assured tenancy Agreement that commenced on 1 June 2017 at a monthly rent of £550.00 per calendar month. It appeared from the rent statements provided that the Respondents had fallen into arrears in about October 2017 and that since that time the arrears had continued to accumulate. The Respondents were in receipt of universal credit that paid some of the rent but as at the date of service of the form AT6 on 6 June 2019 the Respondents had accrued more than nine months of rent arrears and this remained the position as at the date of the case management discussion.
16. The Tribunal was satisfied that the Forms AT6 had been properly served by Sheriff Officers on the Respondents and that intimation of the proceedings had been given to Dundee City Council. The Tribunal was also satisfied that intimation of the Case Management Discussion had been given to the Respondents by Sheriff Officers.
17. As more than three months' rent was due by the Respondents both at the date of serving the Forms AT6 and at the date of the Case Management Discussion the terms of Ground 8 of Schedule 5 of the 1988 Act were satisfied. As this is a mandatory ground for granting possession of the property the Tribunal has no discretion and must grant the order sought. The Tribunal was not provided with any information with regards to the Respondents personal circumstances and as grounds 11 and 12 of Schedule 5 of the 1988 Act are discretionary grounds although it appeared that these may well have also been satisfied the Tribunal did not find it necessary to make a decision on these grounds. And granted the order on the basis that Ground 8 of Schedule 5 had been satisfied.

Decision

18. The Tribunal finds the Applicants entitled to an order for the possession of the property and the ejection of the Respondents 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

29 August 2019

Date