



**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/19/2191**

**Re: Property at 9 Gilcomstoun Land, Aberdeen, AB10 1TA (“the Property”)**

**Parties:**

**Mrs Linda Poole, 11 Robin Hood Meadow, Hemel Hempstead, HP2 6NH (“the Applicant”)**

**Mr Marcus Poole, 9 Gilcomstoun Land, Aberdeen, AB10 1TA (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for repossession against the Respondent**

- 1 By application dated 10<sup>th</sup> July 2019 the Applicant applied to the Tribunal for an order for repossession against the Respondent under section 18 of the Housing (Scotland) Act 1988.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for 13<sup>th</sup> September 2019.
- 3 On 7<sup>th</sup> August 2019 the Respondent was served with a copy of the application together with notification of the date, time and location of the Case Management Discussion by Sheriff Officers.

## **Case Management Discussion**

- 4 The Case Management Discussion took place at the Credo Centre, Aberdeen on 13<sup>th</sup> September 2019. The Respondent did not attend. The Applicant was represented by Fiona Mitchell from Laurie and Co, Solicitors. Ms Mitchell advised that there had been no contact from the Respondent in response to the application. She confirmed that the outstanding arrears had now increased to £18,000. 3 payments had been made in 2016 but nothing since. Ms Mitchell advised that the Applicant required the income from the property and intended to sell it upon gaining possession.

## **Findings in Fact and Law**

- 5 The tenancy between the parties is an assured tenancy which commenced on 29<sup>th</sup> January 2016.
- 6 There is no written tenancy agreement. The tenancy therefore continued by tacit relocation on an annual basis.
- 7 The Respondent has been served with a Notice to Quit terminating the tenancy as at 29<sup>th</sup> January 2019.
- 8 The Respondent has been served with Form AT6 citing grounds 8, 11 and 12 as the grounds upon which the Applicant seeks repossession.
- 9 As at the date of service of the Form AT6 at least three months rent was outstanding.
- 10 As at the date of the Case Management Discussion at least three months rent was outstanding.
- 11 The arrears of rent are not due to any failure to pay housing benefit or its equivalent.

## **Reasons for Decision**

- 12 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. The Tribunal noted that the application paperwork had been served upon the Respondent by Sheriff Officers. He had not taken the opportunity to make written representations, nor had he attended the Case Management Discussion.
- 13 The Applicant sought an order under section 18 of the Housing (Scotland) Act 1988 and had served the Respondent with a Form AT6 notice of her intention to raise proceedings for possession under section 19 of the said Act.

- 14 There is no written tenancy agreement between the parties. Accordingly, in terms of section 18(6) of the Act, the Applicant had also served a Notice to Quit terminating the tenancy between the parties as at 29<sup>th</sup> January 2019 which is a valid ish date.
- 15 The Applicant relied upon grounds 8,11 and 12 of schedule 5 of the said Act. Ground 8 is a mandatory ground. If the Tribunal is satisfied that at least three months rent lawfully due is in arrears both at the date of service of the Form AT6 and the date of the Case Management Discussion it must grant an order for repossession, provided the arrears are not due to any failure to pay housing benefit or its equivalent.
- 16 The Tribunal accepted based on the Applicant's submissions that the rent due under the terms of the tenancy agreement between the parties was £450 per month and that at least three months rent was unpaid when the Form AT6 was served. The Tribunal further accepted based on the submissions of Ms Mitchell at the Case Management Discussion that the arrears had now increased to £18,000. There was no evidence before the Tribunal to suggest that the arrears of rent were due to any failure to pay housing benefit or its equivalent.
- 17 The Tribunal therefore found that the provisions of ground 8 had been met and determined to make an order for repossession. For the avoidance of doubt, the Tribunal did not therefore require to make a determination of grounds 11 and 12.

### 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.**

  
Legal Member/Chair

13/9/19  
Date