



**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/19/2323

Re: Property at 94 Main Street, West Kilbride, KA23 9AP (“the Property”)

Parties:

**Mr Ronald Charles Gordon Munton, As Executor of the Late James Andrew
Christopher Bunting, 4A Frazer Street, Largs, KA30 9HP (“the Applicant”)**

**Mr Robert McCallum, 94 Main Street, West Kilbride, KA23 9AP (“the
Respondent”)**

Tribunal Members:

Alison Kelly (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the order for eviction should be granted.**

Background

The Applicant’s solicitor lodged an application on 24th July 2019 in terms of Rule 65 of the Tribunal’s Procedural Rules, seeking eviction of the respondent in terms of Ground 8, 11 and 12 of Schedule 5 to the Housing (Scotland) Act 1988.

Lodged with the Application were:

1. Copy AT6
2. Copy Notice To Quit
3. Copy Execution of Service
4. Copy Confirmation in relation to the deceased Landlord’s estate
5. Copy death Certificate in relation to the co-executor
6. Copy rent statement
7. Copy section 11 Notice

It was explained in the Application that the Landlord died in 2018, and the Respondent had not paid any rent since June 2018. It was further explained that the Respondent had been in the property since around 17th May 2006, but the Applicant did not have a copy of the lease or the AT5. The Applicant therefore accepted that the tenancy was an assured tenancy rather than a short assured tenancy.

In the linked rent arrears case, CV/19/1758, a Case Management Discussion took place on 29th August 2019. The Respondent attended personally. The Case Management Discussion Note, prepared by the Chairperson, David Preston, states that the Respondent had a copy of the tenancy agreement and AT5, but did not have them with him. The Respondent accepted that he had not paid rent, but said that he had not known who to pay it to. He is noted as saying that he did know that Low Beaton, Solicitors in Largs were dealing with the estate, but had not thought to pay it to them.

The Case Management Discussion in that case was continued to coincide with today's case Management Discussion in relation to this case. The respondent was to pass copies of the tenancy agreement and the AT5 to Low Beaton, Solicitors. The Applicant was to lodge a copy of the Confirmation to show that the property was included on it.

On 10th September 2019 the Applicant's solicitor lodged copy of the Landlord's death certificate, copy Confirmation disclosing the property, and a copy of the title deed.

Case Management Discussion

Miss Baxter, Solicitor appeared on behalf of the Applicant. The Respondent was present and represented himself. The parties advised the Chairperson that they had reached agreement, but that an order was still required to assist the Respondent with his housing application. The respondent confirmed that he was in agreement with the order being granted in terms of Grounds 8, 11 and 12. The linked payment action was dismissed by mutual agreement.

Findings In Fact

1. The Respondent and the deceased Landlord entered in to a tenancy agreement for lease of the property;
2. The monthly rent was £320;
3. As at 23rd April 2019, the date of service of the AT6, the rent arrears stood at £3200;
4. As at today's date the rent arrears stand at £4160.

Reasons For Decision

The grounds of eviction have been met.

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.

A. J. Kelly

Legal Member/Chair

J

Date

27/9/19