



**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/18/2335

Re: Property at 3 Balbeggie Terrace, Dundee, DD4 8RL (“the Property”)

Parties:

Mr James Black, 14 Inveraldie Crescent, Tealing, Dundee, DD4 0QR (“the Applicant”)

Mr Craig Kilbride, 3 Balbeggie Street, Dundee, DD4 8RL (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order in favour of the Applicant against the Respondent for Possession of the Property should be made.

Background

1. By Application submitted on 3 September 2018, the Applicant sought a Possession order against the Respondent for possession of the Property in terms of Section 18 of the Housing (Scotland) Act 1988 (“the Act”).
2. The Application stated that possession of the house was sought under Grounds 8, 11 and 12 of the Act. Supporting documentation was submitted in respect of the Application.
3. On 19 September 2018, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Regulation 9 of the Regulations.
4. On 26 October 2018, a copy of the Application and supporting documentation was served on the Respondent by Sheriff Officer, together with intimation of

the date, time and location set for a Case Management Discussion. Written representations were to be lodged by 9 November 2018. No written representations were submitted.

5. The case called before the Legal Member for a Case Management Discussion on 19 November 2018 at 2pm at Dundee Carer's Centre, Seagate House, 132-134 Seagate, Dundee, DD1 2HB. The Applicant was in attendance. The Respondent was not.

Case Management Discussion

6. The Applicant addressed his application and answered questions from the Legal Member. The Applicant advised that he entered into a Short Assured Tenancy with the Respondent in respect of the Property in April 2017. It was noted that the rent payable was £650 per calendar month. The Applicant advised that rent payments stopped coming in. He made reference to the Rent Statement lodged with the application and provided an updated Rent Statement showing the up to date position. The Applicant advised that he contacted the Respondent about the arrears. The Respondent said that he would make up the payments but he did not do so. The Applicant suspected that the Respondent may have lost his employment, although the Respondent did not say that. It was noted that the Respondent missed 7 monthly rental payments in a row by which time the arrears had reached £4,550. The Respondent then made payments of £650 and £300, reducing the arrears to £4,250 which was the amount of the arrears when the application was submitted to the Tribunal. More arrears have accrued since and further payments have been made, most recently £650 on 11 October 2018, but arrears currently amount to £4,900. The Applicant advised that he has not had any recent contact from the Respondent and does not know what his position is. The Respondent is still residing in the Property. The Applicant thinks that the Respondent's adult daughter lives there with him sometimes. Given the arrears background and the lack of recent contact or any payment proposals from the Respondent, the Applicant wishes to proceed with his application for possession today.
7. The Legal Member considered the matter and gave her decision orally to grant an order for possession today on Grounds 11 and 12 of the Act.

Findings in Fact

8. The Applicant is the owner and landlord of the Property.
9. The Respondent is the tenant of the Property by virtue of a Short Assured Tenancy dated 18 April 2017. The initial term of the tenancy in terms of the lease was one year from 20 April 2017 to 20 April 2018 and continued thereafter on a monthly basis.
10. The rent in terms of the lease is £650 per calendar month.

11. The Respondent initially made his due rental payments but then his payments stopped and he fell into arrears. He initially engaged with the Applicant concerning the arrears but has not addressed the arrears which amounted to £4,250 when this application was submitted and now exceed that, although some further erratic payments have been made. The Respondent has not been in recent contact with the Applicant and has not submitted any written representations in respect of the application or appeared at the Case Management Discussion.
12. A Notice to Quit dated 28 May 2018 was served on the Respondent by way of Sheriff Officer on 19 June 2018, specifying a removal date of 20 August 2018 which is an ish date in terms of the lease. The Notice to Quit was in correct form and provided the requisite period of notice.
13. An AT6 dated 22 June 2018 was served on the Respondent by way of Sheriff Officer on 22 June 2018, specifying an effective date of 7 July 2018. The AT6 was in correct form, specified grounds 8, 11 and 12 of the Act as the statutory grounds for recovery of possession and provided the requisite period of notice for those grounds. The rent arrears amounted to £4,250 when the AT6 was served.
14. The Tribunal Application was submitted on 3 September 2018 at which time the rent arrears amounted to £4,250. In terms of the Application, the Applicant sought an order for possession of the house under grounds 8, 11 and 12 of the Act.
15. At the date of the Case Management Discussion, the arrears amounted to £4,900.

Reasons for Decision

16. The Respondent did not submit any written representations to the Tribunal and did not attend the Case Management Discussion, having been properly and timeously notified of same. The Legal Member was satisfied from the information contained in the application and supporting documentation, together with the oral submissions made by the Applicant at the Case Management Discussion that the Notice to Quit and AT6 had properly and timeously been served, that Grounds 11 and 12 of the Act had been met, in respect that the Respondent had persistently delayed paying rent (Ground 11) and that some rent was unpaid at the start of the Tribunal proceedings and at the time the Respondent was served with the notice of intention to take possession proceedings (Ground 12). The Legal Member was also satisfied that it was reasonable, having regard to the above and to the circumstances of the case, to grant an order for possession on these grounds in terms of Section 18 of the Act.

Decision

17. The Legal Member accordingly determines that an order for possession of the Property be granted.

Nicola Weir, Legal Member

Legal Member/Chair

19 November 2018
Date