

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 19 of the Housing (Scotland)
Act 1988**

Chamber Ref: FTS/HPC/EV/18/2541

Re: Property at 22 McNab Crescent, Stepps, G33 6NY (“the Property”)

Parties:

**Mr Calum Grant, Mrs Stephanie Grant, C/o 10A Princes Terrace, Dowanhill,
G12 9JP (“the Applicant”)**

Miss Lisa Reid, 22 McNab Crescent, Stepps, G33 6NY (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member)

Representation:

**Applicant – Annette Hanna, Victoria Letting, Glasgow
Decision**

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

BACKGROUND

1. By lease dated 10 January 2017 the Applicant let the Property to the Respondent. The rent payable was £895 per calendar month;
2. During 2018 the Respondent fell in to arrears of rent. The Applicant presented an application to the Tribunal seeking an order for eviction due to the rent arrears and suggested other breaches of the tenancy also;
3. Prior to applying to the Tribunal the Applicant served a notice in terms of s19 of the Housing (Scotland) Act 1988 (“the 1988 Act”) – commonly referred to as a form AT6 - on the Respondent;
4. The notice in terms of s19 of the 1988 Act was served on 15 August 2018. On that date arrears of rent amounted to £2,675.00;
5. The application to the Tribunal was received on 25 September 2018. On that date arrears of rent amounted to £3,864.20;
6. The Case management Discussion was held on 11 January 2019. On that date arrears of rent amounted to £6,137.32;

THE CASE MANAGEMENT DISCUSSION

7. The Applicant did not attend the Case Management Discussion but was represented by Miss A Hanna of Victoria Letting, Glasgow. The Respondent attended personally;

8. It was accepted on behalf of the Applicant that the notice in terms of s19 of the 1988 Act served upon the Respondent intimated that recovery of possession of the property would be sought on the basis of grounds 8, 11 and 12 of Schedule 5 to the 1988 Act only. It was accepted also, therefore, that the Tribunal could not consider any other grounds nor any other reasons to support an order for eviction;
9. In relation to ground 8 of Schedule 5, this requires that both at the date of service of the notice in terms of s19 of the 1988 Act and as at the date of the hearing at least 3 months rent was in arrears. Three months rent amounts to £2,685.00. As at the date of service of the notice, the arrears amounted to £2,675.00. The requirement that there be arrears of at least 3 months as at the date of service of the notice was not met and the Tribunal could not consider this ground further;
10. In relation to the arrears generally, the Respondent accepted the arrears and the amounts stated. She explained that her rent had always been paid until she lost her job in June 2018. That adversely affected her financial situation. In October her partner died in tragic circumstances, clearly affecting her emotionally and financially;
11. The Respondent also advised that she had applied for housing benefit. She had applied for this during October 2018 and had also requested that this be backdated. As at the date of the Case Management Discussion she had not been advised of any decision on her application. She was frank in advising the Tribunal, however, that any award made to her will not be sufficient to cover the monthly rent – she understood that the maximum she would be awarded would be in the region of £450 per month - and that even if it is fully backdated, it will be insufficient to clear the arrears. She has two children aged 15 and 16 years. She has not been able to secure alternative accommodation so far and if evicted would need to reside with her mother for a period of time;
12. On the basis of the agreed arrears, the Tribunal considered that the terms of Grounds 11 and 12 of Schedule 5 to the 1988 Act were satisfied – the Respondent had persistently delayed payment of rent lawfully due and was in arrears when the s19 notice was served and when the proceedings were commenced. Both of grounds 11 and 12 of Schedule 5 of the 1988 Act are discretionary grounds for eviction. The Tribunal was also obliged, in terms of s18(4A) of the 1988 Act, to take into account whether any failure or delay in payment of rent was as a result of any failure or delay in the payment of housing benefit;
13. The Tribunal considered that , while there has been an application for housing benefit, that was made during October 2018. The arrears commenced in April 2018. In those circumstances, for the period from April 2018 until October 2018 at least, the failure to make payment cannot have been due to any delay nor failure in payment of benefits. In addition, the Respondent candidly advised and accepted that even if awarded, the housing benefit would not be sufficient to clear the arrears nor, indeed, pay the rent on an ongoing basis. In those circumstances, given the period of time over which the arrears have accrued, the significant level of arrears outstanding, and the matters also referred to in relation to housing benefit, the Tribunal considered that it was reasonable in the circumstances that an order for eviction be granted;

FINDINGS IN FACT

14. The Tribunal found the following facts to be established:-

- i. By lease dated 10 January 2017 the Applicant let the Property to the Respondent. The rent payable was £895 per calendar month;
- ii. During 2018 the Respondent fell in to arrears of rent;
- iii. Prior to applying to the Tribunal the Applicant served a notice in terms of s19 of the Housing (Scotland) Act 1988 the Respondent;
- iv. The notice in terms of s19 of the 1988 Act was served on 15 August 2018. On that date arrears of rent amounted to £2,675.00;
- v. The application to the Tribunal was received on 25 September 2018. On that date arrears of rent amounted to £3,864.20;
- vi. The Case management Discussion was held on 11 January 2019. On that date arrears of rent amounted to £6,137.32;
- vii. The arrears had accrued since April 2018. An application for housing benefit had been made by the Respondent during October 2018. Even if granted and backdated any award of housing benefit would be insufficient to clear the arrears of rent and to make payment of full rent on an ongoing basis;
- viii. In the period from April 2018 until October 2018, during which period there had been no application for housing benefit, any delay or failure to pay rent was not attributable to a delay or failure in payment of benefits;
- ix. In all the circumstances, it was reasonable that an order for eviction be granted;

DECISION

The Tribunal grants an order to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings forth and from the Property at 22 McNab Crescent, Stepps, G33 6NY and to make the same void and redd that the Applicants or others in their name may enter thereon and peaceably possess and enjoy the same. This order is not to be executed prior to 12 noon on 18 February 2019

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.

V Crawford

11 January 2018

Legal Member/Chair

Date