



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 18 and 33 of the Housing (Scotland) Act 1988 (“the Act”)

Chamber Ref: FTS/HPC/EV/18/2886

Re: Property at 12 Cherry Avenue, Bathgate, EH48 1NA (“the Property”)

Parties:

William Leitch trading as True Blue Holdings, 27 Jeanette Stewart Drive, Dalkeith, Midlothian, EH22 4EA (“the Applicant”)

Ms Amanda Donoghue, 12 Cherry Avenue, Bathgate, EH48 1NA (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member)

Decision (in absence of the Respondent)

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

1. By application dated 22 October 2018 (“the Application”), the Applicant’s Agents, on behalf of the Applicants, made an application to the Tribunal for a possession order in terms of Sections 18 and 33 of the Act and in terms of Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of Grounds 8, 11 and 12 of Schedule 5 to the Act. A copy of the tenancy agreement between the parties showing the monthly rent to be £615.00 was lodged as part of the Application. Copies of a Notice to Quit, Form AT6 in terms of Section 19 of the Act (“the AT6”) together with proof of service on the Respondent and notice in terms of Section 19A of the Act to Edinburgh City Council were lodged as part of the Application. A rent statement of rent due and unpaid was also lodged.
2. On 20 November 2018, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 11 January 2019 at 14.00 at George House, 126, George Street, Edinburgh EH2 4HH.

3. The Respondent made no written representations to the Tribunal in respect of the Application.

Case Management Discussion

4. The CMD took place on 11 January 2019 at 14.00 at George House, 126, George Street, Edinburgh EH2 4HH. Mr Alastair Johnston of the Applicant's Agents was present, representing the Applicant. Neither the Applicant nor the Respondent was present.
5. Mr Johnston advised me that the sum claimed remained due and that a further three months' rent was due. Accordingly, the sum currently due and owing to the Applicant by the Respondent is £8,693.08.

Findings in Fact

6. From the Application and the CMD, I found that a tenancy agreement exists between the parties and that the monthly rent is £615.00. Having no reason to disbelieve Mr Johnston and having no representation from the Respondent to the contrary, I found that rent arrears amounting to £7,380.00 were due and owing to the Applicant by the Respondent at the date of service of the AT6, and, that rent arrears of £8,693.08 are due and owing to the Applicant by the Respondent at the date of the CDM. Accordingly, I found that on both dates, at least three months' rent was and is lawfully due by the Respondent.

Decision and Reasons for Decision

7. Having found that at least three months' rent was and is lawfully due by the Respondents at the date of service of the AT6 and at the date of the CDM, I found that the terms of Ground 8 have been established.
8. I then had regard to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussion which it may do at a hearing, including make a decision" and had regard to the terms of Section 18 (3) of the Act which, in effect, states that if the Tribunal is satisfied that Ground 8 is established, it shall grant an order for possession. Accordingly, I determined to grant an order for possession on Ground 8 of the Act.
9. Ground 8 having been established and a mandatory order for possession being granted, there is no need for me to consider the terms of any other grounds referred to in the Application and there is no need to defer consideration of the facts of any of these grounds to a Hearing.

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.

K.Moore

Legal member

11 January 2019