



**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/19/3943

**Re: Property at 3 Freeneuk Lane, Cambuslang, Glasgow, G72 7JW (“the
Property”)**

Parties:

Miss Trudy Rossi, 9 Alexander Avenue, Eaglesham, G76 0JG (“the Applicant”)

**Mr Kris Willmont, 3 Freeneuk Lane, Cambuslang, Glasgow, G72 7JW (“the
Respondent”)**

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be granted without a Hearing
and made an Order for Possession of the Property**

Background

By application, received by the Tribunal on 12 December 2019, the Applicant sought an Order for Possession of the Property under Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Grounds relied on were Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act, all relating to arrears of rent.

The application was accompanied by copies of a Short Assured Tenancy Agreement between the Parties commencing on 1 November 2017 and, if not terminated on 31 October 2018 at a rent of £500 per month, continuing to such later date as might be determined by either Party giving not less than two months’ notice in writing, and a Rent Statement showing arrears as at 1 December 2019 of £4,500. The Tribunal was also provided with copies of a Notice to Quit and a Notice given to the Respondent under Section 19 of the 1988 Act (a Form AT6 Notice), advising of the intention of the Applicant to apply to the Tribunal for an Order for Possession of the Property under Grounds 8, 11 and 12 of Schedule 3 to the 1988 Act, both Notices being dated 26 July 2019 and requiring the Respondent to vacate the Property by 31 October 2019, with proof of service of the Notice to Quit and Form AT6 Notice by sheriff officer on 31 July 2019.

On 3 January 2020, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 24 January 2020. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow on the afternoon of 3 February 2020. The Applicant was represented by Kirsty Morrison of TC Young, solicitors, Glasgow. The Respondent was not present or represented. The Applicant's representative asked the Tribunal to decide the application without a Hearing. She confirmed that no rental payments had been received since the date of the application and that the arrears currently stood at £5,500.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Section 18 of the 1988 Act states that, if satisfied that any of the Grounds in Part I of Schedule 5 to the Act is established, the Tribunal shall make an Order for Possession of a house let on an assured tenancy, provided that, if the Ground for Possession is, *inter alia*, Ground 8 in Part I or Ground 11 or 12 in Part II, the terms of the tenancy make provision for it to be brought to an end on the Ground in question.

The Tribunal was satisfied that the tenancy agreement between the Parties provided that the Applicant might seek recovery of possession prior to the expiry of the term of the tenancy on one or more of Grounds 2, 8 or 11-16 inclusive set out in Schedule 5 to the 1988 Act.

Ground 8 of Part I of Schedule 5 to the 1988 Act provides that the Tribunal must order possession where, both at the date of service of the Notice under Section 19 of the Act and at the date of the hearing, at least three months' rent lawfully due from the tenant is in arrears. The Tribunal was satisfied that the arrears at the date of service of the Form AT6 Notice under Section 19 of the 1988 Act (31 July 2019) had been £2,000 and that the arrears at the date of the Case Management Discussion were £5,500. Accordingly, the requirements of Ground 8 (a Part I Ground) had been met and the Tribunal was bound to make an Order for Possession of the Property.

Having determined the application under Ground 8 of part I of Schedule 5 to the 1988 Act, it was unnecessary for the Tribunal to consider the application further under Grounds 11 and 12 of Part II of the Schedule.

Decision

The Tribunal determined that the application should be granted without a Hearing and made an Order for Possession of the Property.

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.

G.Clark

Legal Member/Chair

3 February 2020

Date