



**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/18/0552

Re: Property at 112 Atholl Street, Dundee, DD2 3BQ (“the Property”)

Parties:

Ms Nicola Foreman, c/o 31A North Bridge Street, Bathgate, EH22 5RD (“the Applicant”)

Mr Robbie Herd, Ms Nicole Harris, 112 Atholl Street, Dundee, DD2 3BQ (“the Respondents”)

Tribunal Members:

Virgil Crawford (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondents)

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

BACKGROUND

1. The Applicant let the Property to the Respondents by a lease dated 20 October 2015. The rent payable was £500 per month, payable monthly and in advance.
2. The Respondents had fallen in to arrears of rent. As at the date of the application to the Tribunal – 5 March 2018 – the arrears amounted to £2,500.00. An updated rent statement was provided to the Tribunal at the Hearing on 14 May 2018. As at that date the arrears amounted to £3,500.00.
3. A notice in terms of section 19 of the Housing (Scotland) Act 1988 – commonly referred to as a form AT6 – was served on each of the Respondents by sheriff officers on 12 January 2018.
4. The proceedings before the Tribunal, and the date time and place of the Hearing, was intimated to each of the Respondents by sheriff officers on 24 April 2018.

THE HEARING/CASE MANAGEMENT DISCUSSION

5. The Applicant was not present at the Hearing but was represented by Mr A. Pirrie, solicitor. The Respondents were neither present at the Hearing nor represented. The Tribunal, being satisfied that the Respondents had been given notice of the Hearing in accordance with Rule 24 of The First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Tribunal Rules") proceeded in absence of the Respondents in terms of Rule 29 of the Tribunal Rules.
6. Mr Pirrie provided the Tribunal with an updated rent statement. This showed that as at the date of the Hearing, the rent was in arrears in the amount of £3,500.00. It further indicated that there had been arrears consistently since 20 June 2017. The most recent payment of rent was on 17 November 2017. At that date there were arrears of £1,500.00. After payment of a rent payment of £500.00 the arrears remained at £1,000.00. No further payments had been made since that date.

FINDINGS IN FACT

7. The Tribunal made the following findings in fact:-
 - i. The Applicant is the Landlord of the Property and the Respondents are the tenants, conform to lease dated 20 October 2015.
 - ii. The Respondents have fallen in to arrears of rent. As at the date of the application to the Tribunal the arrears amounted to £2,500.00, an amount equivalent to 5 months rent.
 - iii. As at the date of the Hearing the arrears amounted to £3,500.00, an amount equivalent to 7 months rent.
 - iv. The Respondents have been in arrears of rent since 20 June 2017. Since then they have persistently delayed paying rent which was lawfully due.
 - v. Rent lawfully due from the Respondents was unpaid as at the date on which the proceedings had begun and was in arrears as at the date on which the Respondents received notice under section 19 of the Housing (Scotland) Act 1988 (12 January 2018).
 - vi. The failure to pay was not as a result of any delay or failure in the payment of relevant housing benefit or universal credit.

REASONS FOR DECISION

8. The Respondents had persistently delayed making payment of rent. They have been in arrears since 20 June 2017. As at the date of the Hearing on 14 May 2018 they were in arrears in the amount of £3,500.00, being 7 months of rent.
9. The requirements of Grounds 8, 11 and 12 of Schedule 5 to the Housing (Scotland) Act 1988 were each met.
10. Ground 8 is a mandatory ground of eviction, unless the Tribunal is satisfied that the rent is in arrears due to any delay or failure in the payment of relevant housing benefit or universal credit. The Tribunal was not so satisfied and, accordingly, the mandatory ground of eviction was established.
11. Grounds 11 and 12 are discretionary grounds of eviction. The Tribunal was satisfied, having regard to the significant level of arrears, the period of arrears and the persistence of arrears, that it was appropriate that an order for eviction be granted.

DECISION

An order shall be granted to eject the Respondents from 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.

V Crawford

14 May 2018

Legal Member/Chair

Date