



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/18/1196

Re: Property at 4/1 Christian Crescent, Edinburgh, EH15 3AE (“the Property”)

Parties:

Ms Sheila Kidd, 5/2 St Mary's Place, Edinburgh, EH15 2QF (“the Applicant”)

Ms Lucy Dalziel, 4/1 Christian Crescent, Edinburgh, EH15 3AE (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Eileen Shand (Ordinary Member)

Decision

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

Background

By application, received by the Tribunal on 16 May 2018, the Applicant sought an Order for Possession of the Property under Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 (“the 1988 Act”).

The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, the tenancy commencing on 26 June 2017 and ending on 25 December 2017, and continuing thereafter on a month-by-month basis until ended by either party on giving the other party not less than one month’s prior notice of intention to terminate. The rent was £675 per month.

The application was also accompanied by a copy Form AT6 with proof of service by sheriff officers on 9 April 2018. The Ground for Possession stated in the Form AT6 was Ground 8.

A Case Management Discussion was held on 6 September 2018. The Tribunal decided to schedule a hearing for 19 October 2018. That hearing was postponed and the Parties were advised of a new date for the hearing.

The Respondent made no written representations to the Tribunal.

The Hearing

A hearing was held at Riverside House, 502 Gorgie Road on the afternoon of 22 December 2018. The Applicant was present at the hearing and was represented by Mr Scott Runciman of Gilson Gray LLP, solicitors. The Respondent was present at the hearing and was supported by Lisa Turnbull.

The Applicant's solicitor told the Tribunal that the latest rent statement, which had been submitted to the Tribunal on 14 November 2018, was correct and showed arrears of rent of £2,451.21, which was more than three months' rent. The Respondent accepted that this figure was correct. The Applicant's solicitor requested an Order for Possession on the ground that the requirements of Ground 8 of Schedule 5 of the Housing (Scotland) Act 1988 had been met.

The Respondent told the Tribunal that she recognised the position she was in, but she was doing everything she could to obtain suitable alternative accommodation for herself and her three children.

Reasons for Decision

The Tribunal was satisfied that it had seen evidence of service of the AT6 Notice. Ground 8 of Schedule 5 to the 1988 Act requires the Tribunal to make an Order for Possession where both at the date of service of the Form AT6 Notice and at the date of the hearing at least three months' rent lawfully due from the tenant is in arrears. The Tribunal was satisfied from the evidence before it that the arrears of rent exceeded three months on both specified dates. The Tribunal noted the evidence of the Respondent that she was making every effort to obtain suitable alternative accommodation, but, in the absence of a Motion to the contrary by the Applicant, the Tribunal had no alternative but to make the Order in standard form.

Decision

The Tribunal determined to grant an Order for Possession in respect 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

22 November 2018

Date