

**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 18 (3A) of the Housing (Scotland) Act 1988.**

**Chamber Ref: FTS/HPC/EV/18/1717**

**Re: Property at 41 Spoolers Road, Paisley, PA1 2UL (“the Property”)**

**Parties:**

**Places for People Homes Limited, c/o Touchstone, Stanley House, Clarence Dock, Leeds, LS10 1PZ (“the Applicant”)**

**Ms Katie O'Dowd, 41 Spoolers Road, Paisley, PA1 2UL (“the Respondent”)**

**Tribunal Members:**

**Lesley Ward (Legal Member)**

**Decision in absence of the Respondent**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the property at 41 Spoolers Road Paisley PA1 2UL be made as ground 8 of Schedule 5 of the Housing (Scotland) Act 1988 has been fulfilled; namely that both as at the date of service of the AT6 (9 May 2018) and at today’s date at least three months rent lawfully due from the respondent is in arrears.**

This is a case management discussion ‘CMD’ regarding an application in terms of Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the tribunal rules’. A second application for rent arrears in terms of rule 70 was heard at the same time. The application was made on behalf of the applicant, Places for People Limited, the landlords of the property at 41 Spoolers Road Paisley PA1 2UL, by Patten and Prentice Solicitors on the 9 June 2018. The tribunal had before it the following copy documents:

1. Application dated 6 July 2018 and received by the Tribunal on 9 July 2018.
2. Tenancy agreement dated 19 January 2016 for the initial term of 19 January 2016 until 18 January 2017.
3. AT6 form dated 9 May 2018.
4. Notice to quit dated 9 May 2018.
5. Sheriff Officers’ execution of service dated 9 May 2018 (NTQ, s33 notice and AT6).
6. S11 letter to local authority dated 6 May 2018.

Lesley Ward

7. Rent statement detailing arrears to 1 July 2018.
8. AT5.
9. Execution of service of the application and notification of hearing by sheriff officer on 11 September 2018.

### **Case management discussion**

Ms Caldwell of TC Young Solicitors attended today's case management CMD as local agents for Patten and Prentice Solicitors. There was no appearance by the respondent. The tribunal had sight of the sheriff officer's execution of service which confirmed that the papers and notification of today's CMD was given to the respondent on 11 September 2018. The tribunal was satisfied that rule 24 had been complied with and proceeded with the CMD in terms of rule 29.

The tribunal noted that the rental payment in the tenancy agreement was £360 but the application refers to payment of £370. Ms Caldwell produced a copy letter sent by the applicant's agents to the respondent on 21 December 2017 advising that the rent was to increase from £360 to £370 on 1 February 2018.

The tribunal noted that the original application in the paper apart referred to arrears in ground 8 of and ground 12 referred to arrears of £266249.86. Number '66' appears to have been included in error. The applicant wrote to the tribunal on 20 July 2018 pointing out this error and including a new paper apart.

Ms Caldwell stated that she was seeking an order for possession in terms of ground 8. She drew attention to the schedule of arrears and confirmed that as at the date of service of the AT6 the arrears were £1509.86 which is over 3 months of rent arrears. She produced an up to date rent statement which confirmed that the current level of arrears are £3359.86. In her submission the ground 8 is met and as this is a mandatory ground, the order should be granted. The tribunal sought clarification in terms of s18(3A) of the Act, namely that the arrears were not as a consequence of a delay or failure in the payment of the relevant housing benefit. The tribunal adjourned for a short time to enable Ms Caldwell to obtain information from her instructing agents. When the tribunal reconvened Ms Caldwell's submissions were that, in terms of the rent account lodged, all of the payments credited to the respondent's account were payments made by her and not payments paid via housing benefit. Further, her instructing agents had stated that the respondent told them in May 2018 that she was in full time employment and had never given any indication that she may be entitled to housing benefit.

### **Findings in fact**

The tribunal finds in fact:

1. The applicants are the owners and landlords of the property at 41 Spoolers Place Paisley PA1 2UL.
2. The applicants entered into a short assured tenancy with the respondent in January 2016 for an initial period of one year and thereafter on a calendar monthly basis.

3. The applicants served a valid notice to quit on the respondent on 9 May 2018 bringing the tenancy to an end on 18 July 2018.
4. The applicants served a valid AT6 form on the respondent on 9 May 2018 which detailed the grounds for possession in terms of ground 8, 11 and 12 of schedule 5 of the Housing (Scotland) Act 1988.
5. The monthly rental payment for the property increased from £360 to £370 in February 2018.
6. As at the date of service of the AT6, namely 9 May 2018 there were at least three months arrears of rent outstanding, namely £1509.86
7. As at today's date there are at least three months arrears outstanding, namely £3359.86.
8. The rent arrears are not in consequence of a delay or failure in the payment of housing benefit.

### **Reasons**

This is an undefended application for possession of property. The tribunal held a joint CMD for this application and a second application in terms of rule 70 involving the same parties for payment in respect of rent arrears. The application was undefended. The tribunal is satisfied that effective service of the application and notification of today's hearing on the respondent has been carried out. The tribunal proceeded to hear the application in terms of rule 29. The tribunal is satisfied that the procedure has been fair and that there is sufficient information before the tribunal to enable a decision to be made. The tribunal is satisfied that the ground for eviction in terms of ground 8 is met and a valid notice to quit and AT6 have been served. The arrears are not due to any delay or failure regarding housing benefit and accordingly this is a mandatory ground in terms of s18 of the Housing (Scotland) Act 1988. The tribunal granted the order sought in accordance with the overriding objective as no purpose would be served in adjourning the CMD or fixing 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.**

Lesley Ward

---

Lesley A Ward Legal Member

---

Date: 3 October 2018