

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 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/CV/18/1860

Re: Property at Flat 7, Glenlednock Drive, Craigmarloch Way, Cumbernauld, Glasgow, G68 0EJ (“the Property”)

Parties:

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

Ms Karen Jarvie, Flat 7, Glenlednock Drive, Craigmarloch Way, Cumbernauld, Glasgow, G68 0EJ (“the Respondent”)

Tribunal Members:

David Preston (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to issue an order for [payment of the sum of Three Thousand Five hundred Pounds (£3500)].

Background

1. By application dated 20 July 2018 the Applicant applied to the First-tier Tribunal under Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) for an order for payment of £1500 or such other sum as is due as at the date of any hearing to follow arising from the tenancy agreement between the parties dated 1 May 2015. The tribunal had before it:

- a copy of the tenancy agreement dated 1 May 2015;
- Form AT5 dated 1 May 2015;
- Notice to Quit dated 6 July 2018;
- Form AT6 dated 6 July 2018;
- Notice under section 33 of the Housing (Scotland) Act 1988 dated 6 July 2018;
- Sheriff Officers Execution of Service dated 6 July 2018;

- Notice under section 11 of the Homelessness etc (Scotland) Act 2003;
- Rent Statement for the period 1 May 2015 to 31 July 2015 with updated statement to 30 November 2018;
- Medical Certificate in respect of the respondent dated 27 November 2018;
- Emailed representations from the respondent dated 20 November 2018;
- Representations from the applicant dated 26 November 2018;
- Various emails from the respondent in October 2018 in relation to the postponement of CMD scheduled for 22 October 2018;
- Land Certificate title number DMB47403.

The Case Management Discussion

2. Ms Nicola Caldwell, Paralegal TC Young, Solicitors, appeared locally on behalf of the Applicants. There was no appearance by or on behalf of the Respondent. Papers had been served on the Respondent by Sheriff Officers and the respondent had been in communication with the Tribunal in relation to today's CMD.
3. The respondent's emails were clear that she was not able to attend the CMD due to her medical condition, which had been postponed until today's date for the same reasons from a scheduled CMD on 22 October 2018. She had been offered an opportunity to attend by telephone which she had declined. She referred to a medical certificate which confirmed that she was unfit for work. In her email of 4 December 2018 she said that she wanted "...the opportunity to repay amount owed in instalments if possible..." she said that she was in a Debt Arrangement Scheme. She did not contest the sums due.
4. The applicant's agents had opposed the request for a further adjournment of the CMD as arrears continued to accrue and in view of the nature of the medical condition, of which they had been made aware, there was unlikely to be any change in circumstances, apart from the accruing level of arrears.
5. The tribunal considered the submissions made and determined that there would be no likely change in the respondent's situation which would make any difference at an adjourned CMD and decided that there was sufficient information before it to allow it to make a determination.
6. Ms Caldwell advised that the initial rent in terms of the tenancy agreement had been increased annually and now stood at £500 per month.
7. Ms Caldwell advised that no rent had been received by the Applicant since 23 April 2018. An updated statement of rent showing the sum of £3500 as outstanding as at the 30 November 2018 had been lodged and intimated to the respondent by the Tribunal.
8. The tribunal noted that the written representations from the Respondent acknowledged the rent arrears.

Findings in Fact

9. The tenancy between the parties was constituted by Tenancy Agreement dated 1 May 2015.
10. Rent arrears amounting to £3500 had accrued by the date of the CMD hearing.
11. The Respondent had received all relevant paperwork which was in order.

Reasons for Decision

12. The tribunal was satisfied that the paperwork was in order and that three months' rent had been outstanding as at the date of the application with no further payments since then. Accordingly, the tribunal was satisfied that the requirements of Ground 8 had been satisfied and that it was required to grant an order for possession.

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.

David Preston
Chairman

6 December 2018

