



**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/18/2244

Re: Property at 10A Drumlanrig Square, Hawick, TD9 0AS (“the Property”)

Parties:

Mr Lewis Collings, 2 Coniston Square, Great Yarmouth, NR30 1NT (“the Applicant”)

Mr Daniel Lenton, 10A Drumlanrig Square, Hawick, TD9 0AS (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for possession of the property and the ejection of the Respondent from the property.

Background

1. By application dated 23 August 2018 the Applicant through his representatives Andrew Haddon and Crowe W.S. Solicitors, applied to the Tribunal for an order for possession of the property and the ejection of the Respondent in terms of Section 18 of the Housing (Scotland) Act 2018 (“the 1988 Act”) on the ground that more than three months’ rent was outstanding all in terms of Ground 8 of Schedule 5 of the 1988 Act. The Applicant provided the Tribunal with a copy of the tenancy agreement,, form AT6, Sheriff Officers Execution of Service, a rent statement and a Section 11 notice.
2. Following further correspondence between the Applicant’s representative and the Tribunal by Notice of Acceptance dated 3 October 2018 a legal member of the Tribunal with delegated powers accepted the application and a Case

Management Discussion was fixed to take place on 23 November 2018 at Langlee Community Centre, Marigold Drive Galashiels.

3. Intimation of the Case Management Discussion was given to the Applicant's representative by post on 1 November 2018 and to the Respondent by Sheriff Officers on 2 November 2018.
4. Neither party made any further written representations to the Tribunal.

Case Management Discussion

5. The Applicant did not attend the Case Management Discussion but was represented by Mr Charles Rickett, Solicitor of Andrew Haddon & Crowe WS the Applicant's representatives. There was no appearance by the Respondent.
6. The Case Management discussion proceeded in the absence of the Respondent in accordance with Rule 29 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations").
7. For the Applicant Mr Rickett submitted that the parties had entered into a Short Assured Tenancy Agreement and that the Respondent had not paid any rent since September 2017. He referred the Tribunal to the copy tenancy agreement and the rent statement provided with the application. He submitted that Ground 8 of Schedule 5 of the 1988 Act was satisfied. As far as Mr Rickett was aware there was no Housing Benefit claim outstanding. Mr Rickett was uncertain as to whether the Respondent was still residing in the property. There had been no communication from him.
8. Mr Rickett confirmed that the form AT6 had been sent by both First Class Recorded Delivery post and First Class Ordinary post on 6 August 2018. Sheriff Officers had also served the AT6 on the Respondent by letterbox service on 9 August 2018. The Application had been signed on 23 August 2018 and received by the Tribunal on 24 August 2018. Mr Rickett submitted that this complied with the statutory 14 day notice period required by the 1988 Act.
9. As there was no appearance by the Respondent and no opposition to the order being granted Mr Rickett moved the Tribunal to grant the order for possession of the property and the ejection of the Respondent.

Findings in Fact

10. The parties entered into a Short Assured Tenancy Agreement that commenced on 31 October 2016 and ended on 29 April 2017 and continued thereafter on a month to month basis.
11. The rent was £350.00 per calendar month.

12. The Respondent has not paid any rent since 27 September 2017.
13. There is more than three months' rent due both at the date of service of the form AT6 and at the date of the Case Management discussion.
14. The Respondent was served with a form AT6 addressed to him at the property by First Class ordinary post sent on 6 August 2018 and by Sheriff Officers on 9 August 2018.
15. Intimation of these proceedings was given to the local authority by Section 11 Notice on 23 August 2018.

Reasons for Decision

16. The Tribunal was satisfied that the Applicant had produced sufficient evidence to show that there was more than three months rent outstanding in terms of Ground 8 of Schedule 5 of the 1988 Act.
17. The Tribunal was satisfied that the Respondent had been given notice of the Applicant's intention to raise proceedings in terms of Ground 8 of Schedule 5 of the 1988 Act by service of the form AT6
18. The Tribunal was satisfied that intimation of the proceedings had been given to the local authority.
19. The Tribunal was satisfied that there had been intimation of the proceedings given to the Respondent by Sheriff Officers and in the absence of any appearance or other representation by the Respondent or opposition to the order sought the Tribunal was satisfied that the order should be granted.

Decision

20. The Tribunal finds that the Applicant is entitled to an order for possession of the property and for the ejection of the Respondent 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.

Graham Harding

Legal Member/Chair

23 November 2018
Date