



**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/18/3510**

**Re: Property at 114 Kirkness Street, Airdrie, ML6 6ET (“the Property”)**

**Parties:**

**Mr Andrew Wallace, 45 Balfron Drive, Coatbridge, ML5 4FF (“the Applicant”)**

**Miss Jade Airlie, 114 Kirkness Street, Airdrie, ML6 6ET (“the Respondent”)**

**Tribunal Members:**

**Martin McAllister, Legal Member**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant be granted an order for Possession of the Property in terms of Section 18 of The Housing (Scotland) Act 1988.**

**Background**

**This is a case management discussion in respect of an application for recovery of the Property from the Respondent. The application is dated 24<sup>th</sup> December 2018. The Application was accepted by the Tribunal on 16<sup>th</sup> January 2019. No written representations have been received. A certificate of service of Sheriff Officers dated 7<sup>th</sup> February evidenced that the Respondent had been made aware of the case management discussion.**

**Documents before the Tribunal**

- **Tenancy Agreement dated 9<sup>th</sup> February 2017.**
- **AT6 form dated 5<sup>th</sup> December 2018.**
- **Notice to Quit dated 5<sup>th</sup> December 2018.**
- **Sheriff Officer’s execution of Service of Notice to Quit and AT6 Form.**
- **Notice in terms of Section 11 of the Homelessness etc. (Scotland) Act 2003.**

- Rent Statement up to 2<sup>nd</sup> December 2018 showing arrears of £2,512.32.

### **The Case Management Discussion**

The Applicant was present and the purpose and procedure of a case management discussion was explained.

The Applicant confirmed that he was seeking an order for possession of the Property under Ground 8 of Part I of Schedule 5 of the Housing (Scotland) Act 1988 which is

“Both at the date of service of the notice under Section 19 of this Act relating to the proceedings for possession and at the date of the hearing, at least three months lawfully due from the tenant is in arrears.”

The Applicant said that a rent statement had been submitted with the Application showing arrears of £2,521.32 as at 2<sup>nd</sup> December 2018. He said that the Respondent had made no payment since then and that the level of arrears had therefore increased by £900 to £3421.32. The Applicant confirmed that the monthly rental was £450 per month.

It was noted that that the AT6 form which had been served on the respondent was dated and served on 5<sup>th</sup> December 2018 and indicated that proceedings for recovery would not be raised before 20<sup>th</sup> December 2018. The Applicant confirmed that the tenancy was due to terminate on 10<sup>th</sup> August 2018 but had continued on a month to month basis as allowed for in the tenancy agreement.

It was noted that the tenancy agreement referred to the grounds on which a mandatory order for possession would be granted and that this included Ground 8.

The Applicant said that non payment of rent by the Respondent was not a consequence of a delay or failure in the payment of any housing benefit or universal credit. He said that the Respondent had been in receipt of housing benefit and that it had stopped because her circumstances had changed. The Applicant said that he had called the housing benefit office and had been told that there was no housing benefit due to the Respondent.

The Applicant stated that he saw no reason for a Hearing to determine the Application. He said that there was nothing further he could submit for consideration by the Tribunal.

### **Findings in Fact**

1. The Respondent is a tenant in terms of the short assured tenancy agreement dated 9<sup>th</sup> February 2017.
2. The tenancy agreement gave notice to the Respondent in respect of the mandatory grounds for recovery of possession of the Property.
3. The tenancy continued by tacit relocation.

4. A valid AT6 Form was served on the Tenant on 5<sup>th</sup> December 2018 which stated that proceedings for recovery would not commence prior to 20<sup>th</sup> December 2018.
5. The Application before the Tribunal is dated 24<sup>th</sup> December 2018.
6. A valid notice to the local authority under the Homelessness etc. Scotland Act has been served.
7. As at today the level of arrears of rent lawfully due by the Respondent is £3421.32.

### **Reasons for Decision**

The Tribunal accepted that the AT6 Form was valid, that the tenancy agreement properly detailed the grounds for possession of the Property and that the appropriate homelessness notice had been served on the local authority.

The rent statement submitted with the Application showed that more than three months' rent was lawfully due on 2<sup>nd</sup> December 2018 and the Tribunal accepted the evidence of the Applicant with regard to what is currently outstanding. It accepted that the level of arrears at today's date is £3,421.32 which is more than three months' rent.

The Tribunal accepted that there was no information before it that indicated that the level of arrears was due to an issue over housing benefit. It accepted what the Applicant said in this regard.

Consideration was given as to whether or not a Hearing was required to determine the Application. The Tribunal did not consider that it was. The Respondent had the opportunity to make written representations and chose not to do so. She had also not attended the case management discussion. The Applicant had provided sufficient information to satisfy the Tribunal that an order for possession should be granted. In terms of Regulation 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 "the First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision." The Tribunal had regard to Section 18 of The Housing (Scotland) Act 1988 and was satisfied that Ground 8 of Part I of the said Act was met.

### **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Applicant be granted an order for Possession of the Property in terms of Section 18 of The Housing (Scotland) Act 1988.

### **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.

M McAllister

Legal Member/Chair

Date

26/2/19