



**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/18/0758

Re: Property at 14/6 Roseburn Place, Edinburgh, EH12 5NN (“the Property”)

Parties:

**Mr Keiran Burns, Mrs Leila Burns, 41 Whitehorse Road, Edinburgh, EH4 6NL;
41 Whitehouse Road, Edinburgh, EH4 6NL (“the Applicant”)**

**Mr Pierre Pelletier, 14/6 Roseburn Place, Edinburgh, EH12 5NN (“the
Respondent”)**

Tribunal Members:

Anne Mathie (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the order for possession of the property be granted.**

1. Background

The application is for possession of the property known as and forming 14/6 Roseburn Place, Edinburgh. EH12 5NN.

An application was submitted to the Tribunal by the Applicant dated 3 April 2018 setting out that the applicant seek possession of the property under Section 18, Schedule 5 grounds 8, 11 and 12 of the Housing (Scotland) Act 1988. Further, ground 13 was also founded upon there being various alleged breaches of the tenancy agreement in respect of subletting the property, failing to report structural damage to the property and failure to set up a standing order for rent payments.

Documents lodged with the Tribunal were the AT5, a copy of the tenancy agreement, arrears summary document, email correspondence between the parties, section 11 notice. The Tribunal had requested sight of the AT6 and

Notice to Quit along with consent from joint owner of the property Leila Burns to the application. The Tribunal received the AT6 along with Sheriff Officer's Certificate of Execution of Service of AT6, written consent from Leila Burns and submitted no Notice to Quit was necessary as the relevant grounds were included in the tenancy agreement.

The Tribunal fixed a Case Management Discussion and this was intimated to parties. The respondent was served with papers by Sheriff Officers on 17 May 2018 confirming the details of the case and the date of the Case Management Discussion. Written representations were received from the respondent prior to the Case Management Discussion.

2. The Hearing/Case Management Discussion

Both the applicants and the respondent were in attendance. A lengthy discussion took place on where the figure £2475 rent arrears as contained on the AT6 had come from. The tenant neither agreed nor disagreed with this figure. An adjournment of 20 minutes was granted in order for the applicants to provide an explanation of where that figure had come from with reference to the spreadsheets and bank statements already lodged. The applicants were able to provide a handwritten running total of the rent arrears in relation to the figures already lodged and it showed arrears of £2475 at the date of service of AT6 on 18 March 2018. (a copy of these handwritten notes was placed with the papers) The respondent wished to check the figures but advised he neither agreed nor disagreed with them. The Tribunal pointed out that the respondent had received copies of all the figures at the time notice of the application was served on him. It was agreed by all parties that current arrears are £4625 as at 5 June 2018 (not 5 May 2018 as previously advised by applicants).

In terms of Grounds 11 and 12 the applicants stated that the problems with rent arrears started a year after the tenant moved in in March 2010. They had tried to accommodate the respondent. For 7 years the respondent had delayed or missed rent payments.

In terms of Ground 13 the respondent had failed to set up a standing order as required by the tenancy agreement, he had sublet one of the rooms in breach of the tenancy agreement and had failed to advise of structural issues following upon building work to another flat in the building.

The respondent advised he had applied for accommodation from the local authority in March but had received no offer of accommodation. He disputed that he worked at present. He advised that he was unable to work due to his personal circumstances. He was not in receipt of any benefits and had not put in a claim for any benefits. He agreed that he had sublet the room to a friend for payment. He didn't have any reason for non-payment of rent except that he did not have enough money coming in to cover his outgoings. He confirmed he was no longer planning to move to France. The Tribunal adjourned to consider its decision.

3. Findings in Fact

- The applicants and the respondent entered into a tenancy agreement sometime in March 2010. The AT5 was dated 31 March 2010 and both parties believed this to be the start date of the tenancy (the copy of the tenancy agreement the Tribunal had was not entirely clear). The rent was initially £650 per month and rose to £775 per month effective from 30 September 2015.
- The applicants served notice on the respondent on 18 March 2018 of their intention to raise proceedings for the possession of the property under Schedule 5 Grounds 8, 11, 12 and 13. Said notice detailed that proceedings would not be raised before 2 April 2018. No Notice to Quit was served as these grounds were fully narrated in the tenancy agreement.
- At the time of service of the AT6 rent arrears were £2475 which was more than 3 months rent.
- At the date of the hearing the rent arrears were £4625 which was more than 3 months rent.
- There was no issue of non-payment or delay of benefits and no suggestion the rent was not payable.
- Mandatory Ground 8 applied and the applicants were entitled to the order sought for repossession.

4. Reasons for Decision

The Tribunal proceeded on the basis of written documents which were before it as detailed above and from the verbal submissions from all parties. There was nothing before the Tribunal challenging or disputing any of the evidence before it in respect of Ground 8.

5. Decision

The order for possession/eviction is granted.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

A Mathie

Legal Member/Chair

22 June 2018

Date