

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988 (“the Act”) and Regulation 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/18/0755

Re: Property at 1/3 6 Ravenscraig Drive, Glasgow, G53 6LH (“the Property”)

Parties:

Mr Terry Hooper, 55 Lynn Road, Portsmouth, PO2 7NR (“the Applicant”)

Ms Laura Noone, 1/3 6 Ravenscraig Drive, Glasgow, G53 6LH (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order in favour of the Applicant against the Respondent for Possession of the house 1/3, 6 Ravenscraig Drive, Glasgow, G53 6LH should be made.

Background

1. By Application dated and submitted 30 March 2018, the Applicant applied to the First-tier Tribunal Housing and Property Chamber (“the Tribunal”) for a Possession order against the Respondent for possession of the house 1/3, 6 Ravenscraig Drive, Glasgow, G53 6LH. The Application was submitted on behalf of the Applicant by his representative, Mrs Laura Smith, Lettings Manager of the Scottish Property Centre (“the Applicant’s representative”).
2. The Application stated that possession of the house was sought under Grounds 8, 11 and 12 of the Act on the basis that over 3 months’ rent was in arrears both on the date on which notice was served and at the time of the Application being made, that the Respondent had persistently delayed paying rent and that the Respondent had confirmed receipt of the notice but had not

vacated the property. Supporting documentation was submitted in respect of the Application, namely copies of Short Assured Tenancy Agreement, AT6 Notice, Notice to Quit, Section 33 Notice, Rent Schedule, Section 11 Notification to the local authority, proof of service on the Respondent of the requisite notices by Sheriff Officer and written consent from the Applicant authorising the Applicant's representative to act on his behalf in respect of this Tribunal Application.

3. On 20 April 2018, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Regulation 9 of the Regulations.
4. On 4 June 2018, a copy of the Application and supporting documentation was served on the Respondent by Sheriff Officer, together with intimation of the date set for a Case Management Discussion of 2 July 2018 at 2pm. That Case Management Discussion was subsequently postponed at the request of the Applicant's representative. Both parties were notified by letter dated 25 June 2018 that a fresh Case Management Discussion had been set for 27 August 2018 at 10am at Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT. The letter to the Respondent was sent via the Royal Mail 'Signed For' service and was delivered on 27 June 2018 and signed for by "Noone" at 11.45am. Parties were also advised in said letters of 25 June 2018 that any written representations in respect of the Application by the Respondent should be submitted to the Tribunal by 13 July 2018. No written representations were submitted.
5. The case called before the Legal Member for a Case Management Discussion on 27 August 2018 at 10am at Glasgow Tribunals Centre. The Applicant's representative was in attendance at 10am. The Respondent was not. The Legal Member waited until 10.10am to commence the Case Management Discussion to give the Respondent a further opportunity to arrive but she did not. The Case Management Discussion proceeded in the absence of the Respondent. Mrs Laura Smith, Lettings Manager and Mr Gregor Cope, Director, both of the Scottish Property Centre attended on behalf of the Applicant.

Case Management Discussion

6. Mrs Smith addressed the Application on behalf of the Applicant, with reference to the supporting documentation submitted in respect of the Application and answered questions from the Legal Member. Mrs Smith advised of the background to the Application being made to the Tribunal and the statutory grounds on which possession of the house was being sought. She advised that the rent payments due of £300 per calendar month were initially made but the Respondent then started to fall behind with payments. They contacted the Respondent on behalf of the Applicant and tried to make a payment arrangement with her. They suggested lower payments and weekly payments to the Respondent to try and get her payments of rent back on track and offered to meet with her to negotiate a payment plan. However, the

Respondent did not attend. The only explanation given by the Respondent to the Applicant's representative for the arrears arising was that she and her partner had had to go to Ireland, where her partner was from, for family reasons and she had used the rent money to pay for this. The Respondent had initially indicated that she would make up the payments due but seemed reluctant to commit to an alternative payment plan. Payments were not made and no payment plan set up. When the rent arrears reached £900 (3 months' arrears in rent), the Applicant's representative proceeded to serve a Notice to Quit, Section 33 Notice and an AT6 on the Respondent on behalf of the Applicant. The Respondent then made a payment of £200. However, no further payments were made. A fresh AT6 was then served. No further payments were made by the Respondent and no further communications were received from her. The Applicant's representative accordingly proceeded with this Tribunal Application. No further payments have been received since and neither the Applicant nor the Applicant's representative have received any further communication from the Respondent. Mrs Smith confirmed that the Rent Schedule submitted with the Application shows all the rent charges, payments and arrears figures that she has referred to, as at the date the Application was submitted ie. 30 March 2018. The arrears at that time amounted to £1,300. Mrs Smith advised that the arrears now amount to £2,500 and submitted an updated Rent Schedule showing this. Mrs Smith advised that she is unaware whether or not the Respondent is still in occupation of the house. She advised that the Applicant has not submitted a separate application to the Tribunal in respect of the rent arrears and simply wishes to recover the house so that it can be re-let.

7. Mrs Smith advised that the Respondent was working when the tenancy commenced and was understood to have changed jobs subsequently. The Respondent was living at the house with her partner, although the tenancy was in her sole name. Mrs Smith was unaware of the Respondent having any children or anyone else residing with her at the house. Mrs Smith had nothing further that she wished to add. The Legal Member adjourned to consider the matter and subsequently gave her decision orally.

Findings in Fact

8. The Applicant is the owner and landlord of the house at 1/3, 6 Ravenscraig Drive, Glasgow, G53 6LH.
9. The Respondent is the tenant of the house, which she leased from the Applicant by virtue of a Short Assured Tenancy dated 14 July 2018. The initial term of the tenancy in terms of the lease was 14 August 2017 to 14 February 2018 and continued thereafter on a monthly basis.
10. The rent in terms of the lease is £300 per calendar month.
11. The Respondent initially made her due rental payments but then her payments stopped and she fell into arrears. She missed the rental payments due on 14 October 2017, 14 November 2017, 14 December 2017 and 14

January 2018. She initially engaged with the Applicant's representative regarding the arrears but did not address the arrears or reach an alternative payment arrangement.

12. A Notice to Quit dated 31 January 2018 was served on the Respondent by way of Sheriff Officer on 31 January 2018, specifying an effective date of 14 April 2018. The Notice to Quit was in correct form and provided the requisite period of notice.
13. Following service of the Notice to Quit, the Respondent made a payment of £200 towards the arrears on or around 9 February 2018. No further payments have been received since, nor any further communications from the Respondent.
14. An AT6 dated 16 February 2018 was served on the Respondent by way of Sheriff Officer on 19 February 2018, specifying an effective date of 5 March 2018. The AT6 was in correct form, specified grounds 8, 11 and 12 of the Act as the statutory grounds for recovery of possession and provided the requisite period of notice for those grounds. The rent arrears amounted to £1,000 when the AT6 was served.
15. The Tribunal Application was submitted on 30 March 2018 at which time the rent arrears amounted to £1,300. In terms of the Application, the Applicant sought an order for possession of the house under grounds 8, 11 and 12 of the Act.
16. At the date of the Case Management Discussion, the arrears amounted to £1,500.

Reasons for Decision

17. The Respondent did not submit any written representations to the Tribunal and did not attend the Case Management Discussion, having been properly and timeously notified of same. The Legal Member was satisfied from the information contained in the Application and supporting documentation, together with the oral submissions made by the Applicant's representative at the Case Management Discussion that Grounds 11 and 12 of the Act had been met, in that the Respondent had persistently delayed paying rent (Ground 11) and that some rent was unpaid at the start of the Tribunal proceedings and at the time the Respondent was served with the notice of intention to take possession proceedings (Ground 12). The Legal Member was also satisfied that it was reasonable, having regard to the above and to the circumstances of the case, to grant an order for possession on these grounds in terms of Section 18 of the Act.

Decision

18. The Legal Member accordingly determines that an order for possession of the house 1/3, 6 Ravenscraig Drive, Glasgow, G53 6LH should be made in favour of the Applicant.

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.

Nicola Weir

Nicola Weir, Legal Member

Date

27 August 2018