

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(1) of the Housing (Scotland) Act 1988 (Act)

Chamber Ref: FTS/HPC/EV/18/2113

Re: Property at 61 Forth Drive, Craigshill, West Lothian, EH54 5LT (“the Property”)

Parties:

Mr Emmanuel Ebeh, 182 Raeburn Rigg, Carmondean, Livingston, EH54 8PJ (“the Applicant”)

Miss Milena Saqib, 61 Forth Drive, Craigshill, West Lothian, EH54 5LT (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

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

Background

This is an application under section 18(1) of the Act for eviction and recovery of possession on Grounds 12 and 15 of Schedule 5 to the Act.

The following documents were before the Tribunal:

1. Application received 13 August 2018;
2. SAT dated 12 May 2017;
3. AT5 dated 12 May 2017;
4. AT6 dated 24 April 2018;
5. Notice to Quit dated 24 April 2018;
6. Certificate of Service of Notice to Quit and AT6 by Sheriff Officers dated 11 May 2018;

7. Section 11 Notice;
8. Rent Arrears Statement as at September 2018;
9. Emails from West Lothian Council dated 17 October 2018.

Case Management Discussion (CMD)

The case called for a CMD on 15 February 2019. The Applicant was represented by Mr Kavanagh of Elliot Estates. The Respondent was not present or represented.

The Tribunal had before it confirmation of service of notification of the CMD by Sheriff Officers on 28 January 2019. The notification informed the Respondent that the Tribunal could determine the matter if it considers that it has sufficient information and the procedure has been fair.

Mr Kavanagh confirmed that the amount of arrears remained the same as per the statement of September 2018, namely £2,174.

The Tribunal considered the uncontested evidence of the Applicant and made the following findings in fact:

1. The Parties entered in to a tenancy dated 12 May 2017;
2. The Respondent had rent arrears of £2,174 at the commencement of the proceedings, at the date of service of the AT6 and as at the date of the CMD;
3. The Respondent's behaviour on 15 October 2018 had been reported to West Lothian Council and the Police. The behaviour constituted noise, screaming, shouting and loud music. The behaviour constituted several incidents of nuisance or annoyance to neighbours;

The Tribunal considered the Grounds for eviction in turn. Ground 12 was clearly established by the uncontested evidence of rent arrears presented by the Applicant. Ground 15 was established by the documentary evidence produced with the Application and the email from the local authority confirming several incidents on 15 October 2018.

Both Grounds 12 and 15 are discretionary Grounds. As the Respondent did not appear the Tribunal proceeded on the basis of the uncontested evidence before it. Both Grounds were established on the evidence and the Tribunal considered it had sufficient information upon which to make a decision, the procedure was fair and it was reasonable to grant the order sought.

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.

A Strain

Legal Member/Chair

Date

15/2/19