

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 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/18/2310

Re: Property at 160 Zena Street, Barmulloch, G33 1JB (“the Property”)

Parties:

Mrs Anna Duffy, 29 Almond Drive, Lenzie, G66 4JH (“the Applicant”)

Miss Shona Hunter, 160 Zena Street, Barmulloch, G33 1JB (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This is an application dated 29th August 2018 brought in terms of Rule 65 (Application for order for possession in relation to assured tenancies) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant provided with her application copies of the assured tenancy agreement, notice to quit, 19 notice (form AT6), section 11 notice, extract from Scottish Landlord Register and rent arrears statement disclosing arrears of £2,299.22.

The form AT6 intimated to the tenant that the landlord intended to raise proceedings for possession of the house on grounds 8, 11 and 12 of Schedule 5 to the *Housing (Scotland) Act 1988*. The application, however, only seeks to rely upon ground 8.

All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 1st November 2018, and I was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held on 21st November 2018 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant did not appear, but was represented by Ms Grosvenor, solicitor. The Respondent did not appear, but was represented by Ms Johnston, solicitor.

Ms Grosvenor and Ms Johnston advised the Tribunal that the parties had reached agreement that the Tribunal should grant the order sought in this application. Ms Grosvenor as part of that agreement undertook that the Applicant would not take any steps to enforce the order prior to 14th January 2018.

Statement of Reasons

In terms of Section 18(3) of the *Housing (Scotland) Act 1988* ("the Act"), if the Tribunal is satisfied that any of the grounds in Part I of Schedule 5 to the Act is established then, subject to subsections (3A) and (6), the Tribunal shall make an order for possession.

Section 18(3A) of the Act provides that if the First-tier Tribunal is satisfied (a) that Ground 8 in Part I of Schedule 5 to this Act is established; and (b) that rent is in arrears as mentioned in that Ground as a consequence of a delay or failure in the payment of relevant housing benefit or relevant universal credit, the Tribunal shall not make an order for possession unless the Tribunal considers it reasonable to do so. Section 18(6) is not applicable in this application.

Ground 8 of Part I of Schedule 5 to the Act applies if both at the date of service of the notice under section 19 and at the date of the hearing, at least three months' rent lawfully due from the tenant is in arrears.

The Tribunal is satisfied that ground 8 contained in Part 1 of Schedule 5 to the Act has been established. The rental figure outstanding of £2,299.22 is in excess of three months' rental, where the monthly rental in terms of the agreement is £600. The Tribunal has not been satisfied that rent is in arrears as a consequence of a delay or failure in the payment of relevant housing benefit or relevant universal credit. There has been no evidence to establish any such reason for rent arrears.

For the above reasons, and with the agreement of the parties, the Tribunal shall make an order for possession.

Decision

In these circumstances, the Tribunal will make an order for possession of the house let on the tenancy as sought in this application.

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.

N Kinnear

Legal Member/Chair

21/11/18

Date