



Written 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/18/2693

Re: Property at 11 Marquis Court, The Stables, Feus Road, Perth, PH1 2TW ("the Property")

Parties:

Ms Karen Young, 1 Dulnain Street, Nairn, IV12 5ST ("the Applicant")

Mr Ross Nelson, 11 Marquis Court, The Stables, Feus Road, Perth, PH1 2TW ("the Respondent")

Tribunal Members:

Gabrielle Miller (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 recovery and possession should be granted in favour of the Applicant

Background

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules"). The Applicant is seeking an order for payment of the sum of £1450 in terms of s16 of the Housing (Scotland) Act 2014.
2. The parties entered into a Short Assured Tenancy between 1st July 2015 and 31st December 2015 which was continued on a month to month basis thereafter. The rent payments of £500 per month were due on or before the 1st day of each month in advance.
3. The Tribunal had before it the following documents:

- a) Application dated 19th September 2018 received by the Housing and Property Chamber on 8th October 2018.
- b) Short Assured Tenancy Agreement signed 20th June 2015.
- c) Form AT5 signed by the parties on 20th June 2015.
- d) Notice to Quit dated 26th April 2018 dated by Sheriff Officers 26th April 2018.
- e) Section 33 Notice dated 26th April 2018 requiring vacant possession as at 30th June 2018.
- f) Title deeds with reference PTH5016
- g) Sheriff Officers execution of service for the Notice to Quit and Section 33 Notice dated 30th April 2018.
- h) Section 11 Notice noting date of raising proceedings 19th September 2018.
- i) Sheriff Officer certificate of citation for documents pertaining to CMD on 9th January 2019 at including date and time of the CMD. The certificate is dated 11th December 2018 and issued by letterbox delivery. The Sheriff Officer being satisfied that the Respondent resided at the Property.

Case Management Discussion

4. The Tribunal held a Case Management Discussion ("CMD") on 9th January 2019 at Inveralmond Business Centre, Perth. The Applicant was not present but was represented by Ms Bernie O'Connor from Simple Approach Letting Agency. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. The Respondent was written to on 7th December 2018 asking for any representations to be sent to the Housing and Property Chamber no later than 31st December 2018. No representations were submitted. The documents submitted to the Housing and Property Chamber were copies which were unsigned. The agents for the Applicant brought originals which were signed copies and gave the Chair copies. These were inspected by the Chair and confirmed to be satisfactory. Ms O'Connor informed the Tribunal that the arrears had increased to £3000. She also informed the Tribunal the Respondent was in work and that there were no outstanding Housing Benefit issues. Ms O'Connor gave an up to date rent statement to 1st January 2019. It was noted that the rent increased to £525 per month from 1st March 2018. The last payment received was on 29th October 2018 for £800. This was not to adhere to a payment plan but a figure decided upon by the Respondent without consultation. Ms O'Connor had last heard from Respondent at the weekend prior to the hearing when she had asked if he was still in the Property to which he replied with a 'thumbs up emoji' which she had taken to confirm his presence in the Property.

Findings in Fact

5. The parties entered into a Short Assured Tenancy on 1st July 2015 with the commencement of the tenancy on 1st July 2015 for a 6 months period until 31st December 2015 and on a month to month basis thereafter. An AT5 was signed by both parties on the same date as the lease. The rent payments of £500 are due by the 1st day of each month.
6. The Housing and Property Chamber received an Application on 15th August 2018.
7. Rent payments have been persistently missed.

Reasons for Decision and Decision

8. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a rent statement for the period 1st June 2016 to 24th September 2018 in which payments have been missed to amount to £1450 in rent arrears. The Applicant lodged an updated statement to the Tribunal to 1st January 2019, which showed that the amount had increased to £3000. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal was satisfied that there were no other issues of reasonableness before them and that the notices had been served in an appropriate manner and that a Short Assured Tenancy had been entered into by the parties. Given this the Tribunal was satisfied all appropriate paperwork had been served the Order for repossession was granted. The Applicant is entitled to for an Order of for recovery of possession.

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.

Gabrielle Miller

Legal Member/Chair

09 JAN 18

Date