



**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/19/1031

**Re: Property at 59 Westbank Road, Macmerry, East Lothian, EH33 1PL (“the
Property”)**

Parties:

**Lar Housing Trust, 15 Pitreavie Court, Pitreavie Business Park, Dunfermline,
KY11 8UU (“the Applicant”)**

**Mr Craig Fisher, Ms Lisa Wright, 59 Westbank Road, Macmerry, East Lothian,
EH33 1PL (“the Respondents”)**

Tribunal Member:

Maurice O'Carroll (Legal Member)

Decision (in the absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that ground 8 of Schedule 5 to the Housing (Scotland)
Act 1988 (“the 1988 Act”) has been established and therefore an Order for
Eviction shall be granted**

Background

1. By application dated 1 April 2019, the Applicant sought an Order for eviction based upon grounds 11, 12 and 13 of Schedule 5 to the 1988 Act. By application dated 29 May 2019, the Applicant sought to amend the terms of the originating application in order to introduce a further ground, namely ground 8.
2. The application to amend was served on the Respondents by first class post on 29 May 2019 and also by means of Recorded Delivery post. The Recorded Delivery intimation was signed for on 30 May 2019. The period of notice required by rule 14 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the rules”) was provided. Accordingly, the Tribunal allowed the amendment.

The hearing

3. A Case Management Discussion ("CMD") was held on 13 June 2019 at George House, George Street, Edinburgh at 2pm. Ms Nicola Caldwell of Messrs TC Young solicitors appeared on behalf of the Applicant. There was no appearance by either of Respondents or anyone on their behalf.
4. The Tribunal had sight of the Sheriff Officers executions of service informing the Respondents of the date and time of the CMD and also advising them that any decision that could be made at a full hearing could also be made at the CMD. In the exercise of its discretion in the circumstances, the Tribunal decided to proceed with the hearing at the CMD.
5. At the CMD, Ms Caldwell outlined the circumstances giving rise to the application.

Findings in fact

6. The Applicant is the heritable proprietor of the Property.
7. A short assured tenancy was entered into between the Applicant and Respondents on 19 May 2017 and has continued by means of tacit relocation since the expiry of the initial term.
8. The rent payable at the start of the tenancy was £750 per calendar month. In May 2019, the rent was increased to £762 per calendar month.
9. A rent statement was provided showing that rent had been unpaid for a continuous period of three months or more. The Tribunal accepts that statement as being accurate and that therefore ground 8 has been established.
10. Form AT6 dated 10 May 2019 was served on the Respondents in respect of the original application by means of Sheriff Officer on 13 May 2019. A further AT6 in respect of the amended ground of application was served on the Respondents requiring that they vacate the Property by 28 May 2019.
11. The Respondents have not complied with Notice. The second Respondent, Ms Wright is still in occupation of the Property.
12. The Tribunal is satisfied that all procedural requirements in terms of the 1988 Act and the rules have been satisfied by the Applicant.

Decision

13. In light of the above findings in fact, the Tribunal has determined that an Order for Eviction will be 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.

M.O'Carroll

Legal Member/Chair

13 June 2019
Date