



**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/19/3618

Re: Property at 62 Rosewell Drive, Lochore, Fife, KY5 8DP (“the Property”)

Parties:

**Ore Valley Enterprises Limited, 114-116 Station Road, Cardenden, KY5 0BW
 (“the Applicant”)**

**Miss Sarah-Louise McTurk, 62 Rosewell Drive, Lochore, Fife, KY5 8DP (“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 Applicant is entitled to an order for
 repossession against the Respondent.**

Background

1. An application was received by the Housing and Property Chamber which was dated 6th November 2019. The application was submitted under Rule 65 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to grounds 8, 11 and 12 of schedule 3 of the Housing (Scotland) Act 1988.
2. This case should be read in conjunction with FTS/HPC/CV/3627.
3. The Tribunal had before it the following documents:
 - a. Application signed 6th November 2019 and received by the Tribunal.

- b. Tenancy agreement between the parties signed 11th October 2016 with the commencement of the tenancy on 12th October 2016 for a 6 months period until 12th April 2016 and on a month to month basis thereafter.
 - c. Form AT5 signed by the parties on 11th October 2016.
 - d. Form AT6 dated 13th September 2019 with execution of service by Sheriff Officers on 17th September 2019.
4. The Tribunal also had before it a copy of the title deeds numbered FFE96420.
 5. A Notice of Acceptance of Application was signed on 21st August 2019.
 6. On 5th December 2019, all parties were written to with the date for the Case Management Discussion ("CMD") of 10th January 2020 at 2pm at Fife Voluntary Action, 16 East Fergus Place, Kirkcaldy. The letter also requested all written representations be submitted by 27th December 2019.
 7. On 9th December 2019, sheriff officers served the letter with notice of the CMD hearing date and documentation upon the Respondent by letterbox service and first class post. This was evidenced by Certificate of Citation dated 9th December 2019.
 8. The Applicant had originally sought £6291.14. However, during the process the arrears increased and the Applicant's representative amended the amount sought to £6895.14.

Case Management Discussion

9. A CMD was held on 10th January 2020 at 2pm at Fife Voluntary Action, 16 East Fergus Place, Kirkcaldy. The Applicant was represented by Ms Kirsty Morrison, solicitor, TC Young Solicitors. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any made representations in advance of the hearing. Ms Morrison provided the Tribunal with an AT5 and up to date rent statement to 1st January 2020. To the Applicant's knowledge, there were no outstanding Housing Benefit or Universal Credit Housing Element issues. The Applicant understands that the Respondent is in employment.
10. The Applicant stated that the Respondent had been persistently in arrears of rent which had increased to the amount of £6895.14 by the point of the hearing.

Findings in Fact

11. The parties entered into a Short Assured Tenancy with the commencement of the tenancy on 12th October 2016 for a 6 months period until 12th April 2017 and on a month to month basis thereafter. The lease was signed on 11th October 2016. An AT5 was signed by both parties on the same date as the lease. The rent payments of £412 are due by the 1st day of each month.
12. The Housing and Property Chamber Application on was signed on 6th November 2019.
13. The Respondents have persistently not made rent payments. There have been more than 3 missed payments. The amount outstanding has risen to £6895.14 beyond that which was sought in the application.
14. There are no outstanding Housing Benefit issues.
15. The arrears due to the Applicant amounts to £6895.14.

Reasons for Decision

16. 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 March 2017 to 1st January 2020 in which payments have been missed to amount to £6895.14 in rent arrears. The Applicant lodged an updated statement to the Tribunal. The increased to amount had be notified to the Respondent in advance of the hearing. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondent had persistently not paid the rent and were in arrears. As a consequence the Applicant was entitled to be granted the Order for repossession against the Respondent.

Decision

17. The Tribunal found that ground 8, 11 and 12 had been established and the granted an order in favour of the Applicant. 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.

Gabrielle Miller

Legal Member/Chair

10 JAN 2020

Date