



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.

Chamber Ref: FTS/HPC/EV/22/1879

Re: Property at Flat 1/1, 10 Toryglen Road, Rutherglen, Glasgow, G73 1JH (“the Property”)

Parties:

NRAM Limited (Heritable Creditor), Croft Road, Crossflats, Bingley, BD16 2UA (“the Applicant”)

Ms Jean Quinn and all other occupiers, Flat 1/1, 10 Toryglen Road, Rutherglen, Glasgow, G73 1JH (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Gerard Darroch (Ordinary Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 18(1) of the Housing (Scotland) Act 1988 (hereinafter referred to as “the 1988 Act”) for an Order for Repossession. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved.

Decision (in absence)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Repossession against the Respondent under Section 18(1) of the Housing (Scotland) Act 1988.

Attendance and Representation.

The Applicants were represented by Louise Chopra, TLT LLP, 140 West George Street Glasgow, G2 2HG

The Respondent did not attend the Tribunal. The Respondent was serviced by Sheriff Officer on the 27th July 2022. The Tribunal did not commence until 10.07am in case the Respondent was having difficulty joining.

Preliminary Matters.

There were no preliminary matters other than the non-attendance of the Respondent.

The Applicant's representative said that the last substantive contact they had with the Respondent was on the 1st August 2021. The Applicant's representative said that the Respondent was urged to seek advice from the CAB and she was advised to seek assistance from the local authority. No contact had been made from the Respondent thereafter. The Applicant's representative said that they had tried to contact the Respondent again on 5th Sept 2022 by telephone without success. There was a further attempt to contact the Respondent last week without success.

Case Management Discussion.

The Applicant's representative asked that an order for repossession be granted. The submission for the Applicant was that in the circumstances it was reasonable for the order to be granted. The Applicant's representative further submitted that whilst the power of the Tribunal to grant an order she recognised was discretionary she submitted it was reasonable to do so as the Applicant's have tried to work with the Respondent to try and deal with matters. The Applicant's sought to come to a voluntary arrangement for the Respondent to leave the property without success. The Applicant's urged the Respondent to get the advice and assistance and no substantive response has been received. The Respondent has not provided the Applicant's with any personal information.

The Applicant's representative confirmed the Applicant had complied with requirements. The lease agreement whilst it purports to be a short assured tenancy the Applicant's did not have an AT5 so they have treated as an assured tenancy. On 21st September 2021 the Respondent was served with a Notice to Quit and AT6 under the 1988 Act setting out the ground founded upon. The Applicant's representative set out she sought an order under Ground 2, Schedule 5 of the 1988 Act. The Respondent had been given the required notice at the time of 6 months and the Applicant had also complied with giving notice to the local authority. The Applicant's representative said further that the Applicant had tried to engage with the Respondent to deal with matters on a voluntarily basis and this had not been successful.

Reasons for Decision and Findings in Fact

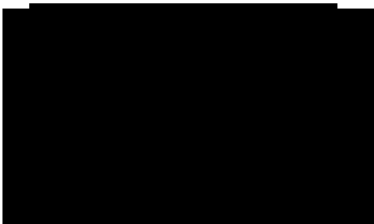
- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings by Sheriff Officer and had not challenged same by written representations or**

attendance. The matter had been ongoing for some time and the Respondent had not engaged with the Applicant's representatives.

2. The Applicant sought an Order for Repossession under Ground 2, Schedule 5 of the 1988 Act on the ground that the property is subject to a heritable security granted before the creation of the tenancy and as a result of a default by the debtor the creditor is entitled to sell the property and requires it for the purpose of disposing of it with vacant possession in exercise of that entitlement.
3. The Respondent was given notice in terms of the tenancy that possession might be recovered on this Ground as the tenancy narrates same.
4. The Tribunal was satisfied that the Applicant was the heritable creditor of the Property as a copy Decree for possession of the let property against the landlord, Chatterpal Singh from Glasgow Sheriff Court dated 21 January 2020 was produced.
5. There was a tenancy in place dated 9th October 2015. The Applicant's have served a Notice to Quit and an AT6 on the tenant both dated 21 September 2021 and served by recorded delivery on 22 September 2021
6. The Tribunal was satisfied that Ground 2, Schedule 5 of the 1988 Act was established.
7. The Tribunal found that the requirements of Ground 2 of Schedule 5 to the 1988 Act had been met.
8. The Tribunal noted the Local Authority had been notified.
9. On the information given to the Tribunal by the Applicant's Representative which was credible the Respondent had not engaged or provided substantive information to the Applicants on her circumstances. Significant time and notice had been given and the Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
10. Accordingly, in terms of Section 18 of the 1988 Act the Tribunal granted an order against the Respondents.

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.



03/11/2022

Legal Member/Chair

Date

