



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/21/2443

Re: Property at 5 Pirnmill Avenue, Motherwell, ML1 3PL (“the Property”)

Parties:

Mr Ron Logan, Casa Lamisa, Benicambra 286, Benitachell 03726 per his agent Ms Lesley Ann Barclay, Branch Manager, Happy Lets, 56 Cadzow Street, Hamilton ML3 6DS (“the applicant”)

Ms Elizabeth Hurst, 5 Pirnmill Avenue, Motherwell, ML1 3PL (“the respondent”)

Tribunal Members:

David Preston (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for eviction be granted in favour of the applicant.

Background

1. An application dated 6 October 2021 for an Order for Eviction was made to the Housing and Property Chamber under ground 8 of schedule 5 of the Housing (Scotland) Act 1988.
2. The papers before the tribunal comprised:
 - a. Short Assurance Tenancy Agreement between the parties dated 29 August 2017;
 - b. Notice to Quit and Form AT6 both dated 19 March 2021, together with proof of postage dated 19 March 2021 and Track and Trace receipt dated 20 March 2021;
 - c. Notice under section 11 of the Homelessness et cetera (Scotland) Act 2003;
 - d. Rent Statement covering the period 1 September 2017 to 1 November 2021 showing arrears at that date of £6460.15;

- e. Pre-action Requirement email dated 20 October 2020 with Private Rented Sector Tenant Support information;
 - f. email correspondence dated 19 and 23 March 2021 between Happy Lets and the respondent regarding an agreement for the respondent to make a payment of £1500 towards the arrears which sum had not been received;
3. By Decision dated 29 November 2021, a convener of HPC having delegated authority for the purpose, referred the application under Rule 9 to a Case Management Discussion (CMD).
 4. On 3 February 2021 a CMD was convened by telephone in accordance with the provisions for dealing with business during the COVID-19 pandemic. Ms Barclay attended on behalf of the applicant. There was no appearance by or on behalf of the respondent by 10:10am.
 5. The tribunal was satisfied that the Letter of Intimation of the CMD together with a copy of the application had been served on the respondent by Sheriff Officers on 24 December 2021, conform to Certificate of Citation of that date. The respondent had voluntarily waived her right to be present or represented at the CMD and the tribunal was content to proceed in her absence.

Discussion

6. Ms Barclay advised that various efforts had been made to contact the tenant by letter, email and by house visits in order to come to an arrangement regarding payment of the arrears, but they had received no response. She also referred to the agreement that the respondent would pay £1500 towards the arrears in March 2021 but the money had not been paid.
7. The tribunal had regard to the paperwork contained in the application file and noted that all relevant notices and pre-action requirements had been complied with. The tribunal noted that no payment towards rent had been received by the applicant since 1 July 2020 and that consequently three months rent had been outstanding both at the date of service of Form AT6 and the Notice to Quit and at today's date. The respondent had not submitted any representations on her own behalf and was not present to speak to her position.

Outcome

8. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
9. The tribunal was satisfied that the statutory requirements in relation to an Order for Eviction had been met and that in view of the fact that the applicant had complied with the pre-action requirements, and in the absence of any representations by or on behalf of the respondent, it was reasonable to grant the Order for eviction

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.

David Preston

3 February 2022