



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/22/0586

Re: Property at 18 Luss Brae, Hamilton, ML3 9UP (“the Property”)

Parties:

Mr Gary Jamieson, Woodlands, Ryelands, Strathaven, Lanarkshire, ML10 6QF (“the Applicant”)

Mrs Denise Millar, Mr Graham Millar, 18 Luss Brae, Hamilton, ML3 9UP (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Leslie Forrest (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 65 for an order to evict the Respondents from the property.
2. By decision dated 11 April 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant’s representative on 12 April 2022. Letters were issued on 11 May 2022 informing parties that a case management discussion had been assigned for 16 June 2022 at 10am, which was to take place by conference call. The parties were advised that they were required to participate in the case management discussion. The Respondents

were invited to make written representations. No written representations were received by the Tribunal.

The Case Management Discussion

4. The case management discussion proceeded by conference call. The Applicant was represented by Mr Chisholm and the discussion proceeded in the absence of the Respondents. The Tribunal observed that there has been a long standing tenancy between the parties, with difficulties over payments of rent apparently arising only from April 2021. The Applicant's representative advised that the Respondents were believed to have been in employment until last year and it is understood by the Applicant that the Respondents are now in receipt of benefits. The Applicant has not received any payments of rent directly from the Department for Work & Pensions and the Respondents have failed to make any payments to reduce the level of rent arrears. The Applicant has received information from neighbours to suggest that the Respondents vacated the property in the last month and now have another property which is funded by the local authority. The Applicant's representative advised that there has been no recent contact between the parties. The Applicant suffers from health difficulties and has struggled to meet payments of his mortgage as a result of the Respondents' failure to pay rent. It was submitted that, in all the circumstances, it was reasonable to grant an order evicting the Respondents from the property.

Findings in Fact

5. The Respondent entered into a short assured tenancy in respect of the property which commenced 1 March 2012.
6. Rent was payable by the Respondents at the rate of £600 per month.
7. The Applicant's representative served the Notice to Quit and the Notice in terms of Section 19 of the Act (form AT6) on the Respondents by sheriff officer on 31 August 2021.
8. As at the date of service of the notices, the Respondents were in arrears of rent in the sum of £1,846.
9. As at the date of this case management discussion, the Respondents were in arrears of rent in the sum of £6,646.

Reason for Decision

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Respondents failed to lodge written submissions and failed to participate in the case management discussion. The Respondents received the notice to quit and section 19 notice almost 10 months ago. According to the rent statement lodged

by the Applicant, the Respondents have been in arrears of rent since April 2021. The Tribunal was satisfied that grounds 8, 11 and 12 had been established; as at the date of service of the notices, and as at the date of the case management discussion, the Respondents were in arrears of rent in respect that more than 3 months' rent was lawfully due. In light of the information provided, the Tribunal was satisfied that it was reasonable for the Tribunal 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.

N. Irvine

16 June 2022

Date