



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: Reference number: FTS/HPC/EV/23/1107

Order granted on 11 August 2023 in the respondent's absence

Property: Flat 0/1 150 Renfrew Rd, Paisley, PA3 4BP

Parties:

Mr Alan Sneddon, residing at 9 St Andrews Rd, Renfrew, PA4 0SN
("the Applicant")

Mr Andrew McAleese residing at Flat 0/1 150 Renfrew Rd, Paisley, PA3 4BP ("the Respondent")

Tribunal Members:

Paul Doyle (Legal Member)
Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes an order for possession of the Property in terms of Section 18 of the Housing (Scotland) Act 1988 under Ground 15 of schedule 5 to the 1988 Act.

Background

1. The Applicant seeks recovery of possession of the Property in terms of Section 18(1) of the Housing (Scotland) Act 1988 ("the 1988 Act"). The Applicant lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a form AT6 served on 08/02/2023, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

2. A case management discussion took place by telephone conference at 10.00am on 11 August 2023. The Applicant was present and unrepresented. The respondent was

neither present nor represented. The time date and place of the case management discussion had been properly intimated to the respondent.

Findings in Fact

3. The Tribunal made the following findings in fact at the Case Management Hearing.

(i) On 17 April 2012 the applicant and respondent entered into a tenancy agreement for the property.

(ii) Clause 21 of the tenancy agreement obliges the respondent to respect his neighbours and to avoid anti-social behaviour. Clause 21 also prohibits the respondent from damaging the property and allowing refuse to accumulate. Clause 21 prohibits the respondent from allowing visitors to be noisy or disruptive.

(iii) Between 20 July 2019 and 26 April 2021 the applicant issued 5 warnings to the respondent because his visitors were intimidating neighbouring proprietors.

(iv) The respondent allows visitors free access to the property. When his visitors congregate in the property they drink to excess, shout, swear, and fight. They damage the property. They terrify neighbouring proprietors.

(v) Neighbouring proprietors complained to the applicant about the following incidents

24/6/19

Shouting at 1am in common area outside door

14/7/19

Fighting outside door

19/7/19

Shouting and urinating on stairwell at 8pm

22/10/19

Shouting and urinating in baby pram in common area

2/11/19

Shouting at 12pm in stairwell

3/2/20

Door kicked in, shouting in communal area

23/7/20

Shouting and fighting in property

18/8/20

Door kicked in, shouting

15/1/21

Urinating in common area

23/4/21

Armed response team and 20 police officers attending stabbing in property. 2 x cars drove up, entered the property and stabbed a visitor.

1/5/21

12 police officers in attendance at property, fleeing suspect in property.

18/8/21

Door kicked in.

16/10/21

Door kicked in.

10/2/22

Fighting in close.

13/8/22

Door kicked in again.

14/11/22

Kitchen window completely smashed, front door glass smashed. Neighbours complaints scared to leave the house, blood in communal area. Blood and excrement all over floors and walls in property.

(vi) On 8 February 2023 the applicant served a form AT6 on the respondent. in terms of the 1988 Act. On 6 April 2023 the applicant submitted an application to the tribunal.

(vii) The Applicant seeks recovery of possession of the Property in terms Ground 15 of schedule 5 to the 1988 Act.

(viii) The respondent offers no resistance to this application.

(ix) There is nothing to suggest that it is unreasonable to grant an order for repossession of the property. The respondent is single and has no dependents. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of section 18 of the Housing (Scotland) Act 1988. The basis for possession set out in in

terms Ground 15 of schedule 5 to the 1988 Act is established. The respondent offers no defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

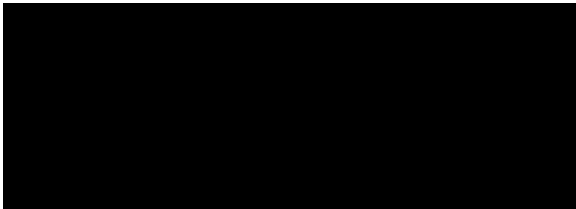
Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 18 of the Housing (Scotland) Act 1988 under Ground 15 of schedule 5 to the 1988 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.



11 August 2023