

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/21/2179

Re: Property at 52 Muir Street, Larkhall, ML9 2BQ (“the Property”)

Parties:

**Scott Building Services, 4 Middleton Avenue, Strutherhill Industrial Estate,
Larkhall, ML9 2TL (“the Applicant”)**

Mr Peter McFarlane, 52 Muir Street, Larkhall, ML9 2BQ (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member) and David Fotheringham (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted.

FINDINGS IN FACT

1. The Applicant is the landlord, and the Respondent the tenant, of the Property under an Assured Tenancy Agreement dated 20 September 2007.
2. The monthly rent payable by the Respondent to the Applicant is £390.
3. Notice to Quit was given to the Respondent on 8 September 2020.
4. Notice in Form AT6 was given to the Respondent on 8 September 2020 specifying grounds 8, 11 and 12 as bases for seeking eviction.
5. The Respondent has been persistently late in paying rent throughout his tenancy.

6. The Respondent was in rent arrears of £3,206.33 when the Form AT6 was served on him.
7. The Respondent is in rent arrears of £3,549.10 as at the date of the CMD.
8. The Respondent's rent arrears exceed a sum equal to three months' rent.
9. The Respondent struggles with mental health issues and drug addiction.
10. The Respondent is a wheelchair user.
11. The Property is not suitable for the Respondent's needs.

FINDINGS IN FACT AND LAW

1. The Respondent being in rent arrears in a sum equal to or in excess of three months' rent, ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 applies.
2. The Respondent having persistently delayed paying rent throughout his tenancy, ground 11 of Schedule 5 to the Housing (Scotland) Act 1988 applies.
3. The Respondent having been in rent arrears when these proceedings were begun, and having been in rent arrears at the date when notice under section 19 of the Housing (Scotland) Act 1988 was served on his, ground 12 of Schedule 5 to the Housing (Scotland) Act 1988 applies.
4. In all of the circumstances, it is reasonable to grant an eviction order.

STATEMENT OF REASONS

1. This Application called for its Case Management Discussion by teleconference call on 3 November 2021. The Applicant was represented by Ms Young of ELT Lettings. The Respondent was represented by his daughter, Miss McFarlane.
2. In this Application, the Applicant seeks an eviction order against the Respondent. The Applicant contends that the Respondent is in rent arrears, and has been in arrears since 2007. The Applicant gave Notice to Quit to the Respondent on 8 September 2020, and Notice under section 19 of the Housing (Scotland) Act 1988 ("the AT6") on the same day. The AT6 specified that the Applicant was seeking possession of the Property under grounds 8, 11 and 12, all of which relate to rent arrears in some way. The AT6 specified that the arrears outstanding at that time were £3,206.33. When the application was raised, the arrears had increased to £3,412.70. At the CMD, Ms Young confirmed that the arrears had increased further to £3,549.10. She invited the Tribunal to grant the eviction order.

3. Miss McFarlane advised that she did not know how the rent arrears had accrued. Her understanding was that her father was in receipt of housing benefit, but she did not realise that there was a shortfall between the benefit received and the rent payable. She accepted that the rent arrears had accrued. She also advised that the Property was not suitable for her father's needs. He suffers from mental health issues and drug addiction. He is a wheelchair user. Miss McFarlane's view was that, whilst the need to leave his home of fourteen years was likely to be difficult for her father, his needs would be better served in another property that was appropriately adapted. She expressed dissatisfaction with the local authority's social work team for their approach to her father's proposed homelessness. In any event, Miss McFarlane accepted that it was reasonable to grant the eviction order.
4. The Tribunal is empowered by Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Procedure Rules to do anything at a Case Management Discussion that it may do at a Hearing, including make a final decision. The Tribunal is also required by Rule 2 to have regard to the overriding objective to deal with proceedings justly when making any decision. The overriding objective includes the need to avoid unnecessary delay.
5. In light of the concessions made by Miss McFarlane, the Tribunal was satisfied that:-
 - a. The Applicant is the landlord, and the Respondent the tenant, of the Property under an Assured Tenancy Agreement dated 20 September 2007.
 - b. The monthly rent payable by the Respondent to the Applicant is £390.
 - c. Notice to Quit was given to the Respondent on 8 September 2020.
 - d. Notice in Form AT6 was given to the Respondent on 8 September 2020 specifying grounds 8, 11 and 12 as bases for seeking eviction.
 - e. The Respondent has been persistently late in paying rent throughout his tenancy.
 - f. The Respondent was in rent arrears of £3,206.33 when the Form AT6 was served on him.
 - g. The Respondent is in rent arrears of £3,549.10 as at the date of the CMD.
 - h. The Respondent's rent arrears exceed a sum equal to three months' rent.
 - i. The Respondent struggles with mental health issues and drug addiction.
 - j. The Respondent is a wheelchair user.
 - k. The Property is not suitable for the Respondent's needs.
 - l. It is reasonable to grant an eviction order.
6. In all of the circumstances, the Tribunal is satisfied that grounds 8, 11 and 12 of Schedule 5 to the Housing (Scotland) Act 1988 apply in this case. Appropriate notices have been given to the Respondent in accordance with

sections 18 and 19 of the 1988 Act. It is reasonable to grant the eviction order, and we will do so.

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.

Andrew Upton

3 November 2021

Legal Member/Chair

Date