



**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/21/2327**

**Re: Property at 6 Kintail Place, Dingwall, IV15 9RL (“the Property”)**

**Parties:**

**Mr Craig Reid, 8 Anderson Drive, Fortrose, IV10 8TG (“the Applicant”)**

**Mr Marius Piwonski, Miss Adrianna Sieron, 6 Kintail Place, Dingwall, IV15 9RL (“the Respondents”)**

**Tribunal Members:**

**Lesley Ward (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision (in absence of the Respondents)**

- 1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the eviction of the respondent from the property be made on ground 8 of schedule 5 of the Housing (Scotland) Act 1988, on the basis that there are rent arrears in excess of three months and that the rent arrears are not as a consequence of a delay or failure in payment of a relevant benefit, and it is reasonable to grant the order.**
- 2. This was a case management discussion ‘CMD in connection with an application in terms of rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’. The applicant’s solicitor Ms Kirsty Morrison attended. The respondents did not attend and were not represented. The tribunal had sight of the execution of service by sheriff officers dated 13 December 2021 and were satisfied that the respondents’ were aware of today’s hearing. There was a second application before the tribunal for rent arrears. The tribunal was also aware that the first named respondent made a telephone call to the tribunal administration with the aid of an interpreter, on 6 January 2022, to advise that they were not opposed to either application and would not be attending the CMD. The tribunal proceeded with the CMD in terms**

of rules 24 and 29.

3. The tribunal had before it the following copy documents:

- (1) Application dated 21 September 2021.
- (2) Tenancy agreement.
- (3) AT5.
- (4) Notice to quit to each tenant dated 18 December 2020.
- (5) AT6 to each tenant dated 18 December 2020.
- (6) Rent statement.
- (7) Proof of service of items 3 and 4.
- (8) Updated rent statement.
- (9) Letter to respondents regarding pre action requirement dated 2 August 2021.
- (10) S11 notice.
- (11) Land certificate.

## **Discussion**

4. Ms Morrison was seeking an eviction order on the basis that the rent areas currently stand at £7350. When the AT6 was served the arrears stood at £3950. The monthly rent is £700 so the arrears are in excess of three months, both at the date of the AT6 and at today's date. It was Ms Morrison's position that the arrears are not due to a failure or delay in payment of a relevant benefit and it is reasonable in all of the circumstances for an eviction order to be granted. She stated that the respondents have rented the property since 2013 and they entered into a new tenancy agreement in 2015. The applicant did not have any information concerning their entitlement to benefits. All attempts on the part of the applicant to enter into a dialogue with the respondents via telephone or email had failed. The applicant was insisting on the eviction order. Ms Morrison was unable to provide any other information regarding who resides in the property and whether the respondents have any children. It was her position that they had complied with all other aspects of the tenancy agreement as far as she was aware. She was unable to confirm any details of the applicant's circumstances and whether the property was mortgaged but she submitted it was reasonable to conclude that the applicant could be having financial difficulty given the level of arrears.

## **5. Findings in fact.**

- The applicant is the owner of the property.
- The parties entered into a short assured tenancy agreement on 1 April 2015 for let of the property for the initial period of one year from 1 April 2015 until 31 March 2016 and for further periods of one year thereafter.

- The agreed monthly rent was £700.
- Rent arrears began to accrue in December 2018.
- The rent arrears on 21 December 2020 were around £3950.
- The applicant served a valid notice to quit dated 18 December 2020 on 21 December 2020 with an ish date of 31 March 2021.
- The applicant served a valid AT6 dated 18 December 2020 on 21 December 2020.
- The tenancy has come to an end and tacit relocation is not occurring
- The rent arrears at the date the application was made were around £6300.
- The rent arrears as at 18 January 2022 were £7350.
- The rent arrears are not wholly or partly due to a failure in a relevant benefit.
- The respondents continue to reside in the property.

## **Reasons**

6. This is an undefended application for eviction from a short assured tenancy on grounds 8, 11 and 12 of schedule 5 of the Act. The tribunal was satisfied that ground 8 was met as both as at the date of service of the AT6 and at today's date there are rent arrears in excess of three months' rent. The tribunal was satisfied that the tenancy agreement was at an end given the valid notice to quit was served on 21 December 2021.
7. The tribunal was satisfied that the correct notice period of 6 months (due to the extensions of notice periods in terms of the Coronavirus (Scotland) Act 2020), was given. Proceedings were raised on 21 September 2021 and the AT6 dated 18 December 2020 and served on 21 December 2020 gave the date of 23 June 2021 for any proceeding to be raised.
8. The tribunal was satisfied that the arrears were not due to any delay or failure in payment of a relevant benefit. Most of the arrears accrued after the amendments to the Act made by the Coronavirus (Scotland) Act 2020. The tribunal was satisfied that the applicant has complied with the pre-action requirements. The applicant wrote to both respondents on 2 August 2021 and gave them relevant information about where they can seek help with the arrears and endeavoured to come to an agreement regarding the arrears.
9. Given the amendments to the Act by the Coronavirus (Scotland) Act 2020, the tribunal must be satisfied that it is reasonable to grant to the eviction order. The tribunal noted that the arrears began to accrue before the pandemic, and they have continued to accrue since then. The arrears are substantial. The tribunal noted that the respondents do not appear to oppose the application. The tribunal was satisfied that it was reasonable in all of the circumstances to grant the eviction application.

## **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.

18 January 2022

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Lesley A Ward Legal Member

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Date