

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/20/0428

Re: Property at 0/1 72 High Street, Lochwinnoch, PA12 4AA (“the Property”)

Parties:

Mrs Wanda Bird, 6 Waterson Way, Lochwinnoch, PA12 4EQ (“the Applicant”)

Mr David Main, 0/1 72 High Street, Lochwinnoch, PA12 4AA (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”) the Applicant was personally present and was represented by her husband, Mr Colin Bird. The Respondent was neither present nor represented.

The Tribunal had before it the “Notes on a Case Management Discussion” relative to a previous CMD that took place on 14 July 2020.

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- The Applicant is the heritable proprietor of the Property.
- The Respondent is the tenant of the Property in terms of a Tenancy Agreement signed on 31 March 2017 (“the Tenancy Agreement”).
- The start date of the tenancy is stated in the Agreement to be 31 March 2017.
- The Tenancy Agreement is a properly constituted Short Assured Tenancy Agreement under the Housing (Scotland) Act 1988 (“the Act”).
- In terms of the Tenancy Agreement the rent payable by the Respondent was stated to be £500 per month payable in advance on the 31st of each month.
- The Applicant per her agents served on the Respondent a Notice to Quit and Form AT6 dated 21 January 2020. Service was effected by Sheriff Officers on

23 January 2020. The end of the notice period in terms of the Notice to Quit and Form AT6 was 7 February 2020.

- The Respondent remains in occupation of the Property.
- As at the date of the CMD the rent arrears accrued are £4,850.00

The Case Management Discussion

Submissions for the Applicant:-

At the CMD the Applicant and her representative stated:-

- That as at the CMD on 14 July 2020 the rent arrears stood at £5,600. Since then two further payments of rent of £500 each have fallen due.
- That the Respondent made payments of £750 and £1,000 on 14 and 31 July respectively and that the total rent outstanding as at the CMD today is £4,850.
- That the Respondent has completely failed to communicate.
- That the Respondent's payments have always been irregular.
- That the Respondent lives in the Property with his 3 children, one of whom is an adult.
- That the Respondent is in employment as a delivery driver.
- That the Applicant seeks an order for the eviction of the Respondent.

Reasons for Decision

- There exists between the parties a Short Assured Tenancy.
- A Form AT6 has been properly served.
- The Respondent is and for some time has been in arrears of rent of more than 3 months in value.
- The Respondent has had due intimation of this Application in terms of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.
- The terms of Grounds 8, 11 and 12 of Schedule 5 of the 1988 Act are met.
- The Tribunal must therefore issue an eviction order.

Decision

The Applicant is entitled to an order for eviction and the Tribunal made an order to that effect.

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.



Legal Member/Chair

25 August 2020