

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/19/2505

Re: Property at Flat 5, 87 Wilton Street, Glasgow, G20 6RD (“the Property”)

Parties:

Ian Baxter Discretionary Trust, c/o Wright Johnston and Mackenzie LLP, 302 St Vincent Street, Glasgow, G2 5RZ (“the Applicant”)

Mr Stephen Abel, Flat 5, 87 Wilton Street, Glasgow, G20 6RD (“the Respondent”)

Tribunal Member:

Nicola Irvine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the application for recovery of possession of the property.

Background

The Applicant submitted an application seeking an order to evict the Respondent from the property at Flat 5, 87 Wilton Street, Glasgow, G20 6RD. The Tribunal intimated the application to the parties by letter of 16th September 2019 and advised them of the date, time and place of today’s case management discussion. In that letter, the parties were also told that they required to attend the hearing and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 7th October 2019. No written representations were received by the Tribunal.

The Case Management Discussion

The Applicant was represented by Miss Elaine Goodwin, solicitor. The case management discussion proceeded in the absence of the Respondent. Miss Goodwin advised the Tribunal that there has been no contact with the Respondent since the application was made; the Respondent has not made any further payments of rent beyond what is shown on the rent statement lodged. The Applicant sought an order for recovery of possession of the property on the basis that a sum in excess of 3 months' rent was due at the time of service of the notice of proceedings and as at today's date. The Applicant's position was therefore that ground 8 of schedule 5 of the 1988 Act is established.

Findings in Fact

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 18th September 2013. The period of the tenancy was from 16th September 2013 to 15th March 2014. Thereafter, the tenancy continued by tacit relocation on a monthly basis.
2. The rent payable was £150 per month, payable in advance.
3. The Applicant's agent served notice of proceedings in terms of Section 19 of the Housing (Scotland) Act 1988 on 30th May 2019 indicating that the Applicant the Applicant intended to raise proceedings for possession of the property.
4. As at the date the notice of proceeding was served, rent arrears amounted to £1,050.
5. The Applicant is entitled to the Order sought for recovery of possession.

Reason for Decision

The Respondent failed to lodge written representations and failed to attend the case management discussion. The Tribunal therefore proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Tribunal was satisfied that ground 8 was established on the basis of the level of rent arrears. Ground 8 is a mandatory ground of eviction and therefore the Tribunal granted the order for recovery of possession.

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.

Nicola Irvine

Legal Member/Chair

23rd October 2019

Date