

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/18/3461

Re: Property at 8 Waverley Street, Hamilton, ML3 9NG (“the Property”)

Parties:

Ms Caroline Carroll, 9A Waterlands Road, Law, ML8 5EX (“the Applicant”)

Ms Caroline O'hara, 8 Waverley Street, Hamilton, ML3 9NG (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. By application dated 12 December 2018 the Applicant applied to the First-tier Tribunal for Scotland (Housing and Property) Chamber for an order for repossession of the Property. The Applicant also lodged a copy Short Assured Tenancy with the Respondent signed and dated 6 and 8 October 2017, an AT5 and acknowledgement dated 6 October 2017, a Notice to Quit dated 6 October 2017, a rent statement to November 2018, an AT6 with Sheriff Officers Execution dated 7 November 2018 and a Section 11 Notice.
2. On 10 January 2019 the Tribunal issued a Notice of Acceptance of the Application under Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
3. On 29 January 2019 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 14 February 2019. The Tribunal advised both parties on 29 January 2019 that a Case Management Discussion under Rule 17 of the Regulations would

proceed on 19 February 2019. This paperwork was served on the Respondent by Damian Cusick, Sheriff Officer, Hamilton on 29 January 2019. A certificate of execution of service was received by the Tribunal administration.

4. The Respondent did not make any written representations by 14 February 2019.

Case Management Discussion

5. The Tribunal proceeded with the Case Management Discussion on 19 February 2019. The Applicant was personally present. There was no appearance by or on behalf of the Respondent.
6. The Tribunal proceeded in absence of the Respondent. The Tribunal was referred to the tenancy agreement between the parties signed and dated 6 and 8 October 2017. The monthly rent was £475. The Applicant explained that the Notice to Quit dated 6 October 2017 had been served on the Respondent by Sheriff Officers. No execution of service had been provided. For the purpose of the proceedings before it the Tribunal did not consider the Notice to Quit.
7. The Applicant referred to the rent statement which showed that the Respondent was at least 3 month's in rent arrears of £1425 when the Notice of Intention to Raise Proceedings ("AT6") under Section 19 of the Housing (Scotland) Act 1988 had been served on the Respondent on 7 November 2018. She explained that the Respondent was now six months in arrears. She also referred to the AT6 itself which showed Grounds 8, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988. No payments had been made to account.

Findings In Fact

8. The parties entered into a Short Assured Tenancy on 6 and 8 October 2017 for the Property. The rent was £475 per month.
9. The Respondent had fallen into arrears of rent. As of 6 November 2018 she was in arrears of rent of £1425 being over three months in arrears.
10. The Applicant served a Notice of Intention to Raise Proceedings ("AT6") under Section 19 of the Housing (Scotland) Act 1988 on the Respondent by Sheriff Officers on 7 November 2018. This gave the Respondent fair notice that she was in arrears of rent to the sum of £1425 and that proceedings to remove her could be raised after 22 November 2018.
11. The rent arrears have increased to £2850 being six times the monthly rent of £475 at the date of the hearing. No payments have been received from the

Respondent. Accordingly, both at the date of service of the AT6 and at the date of the hearing at least three months' rent lawfully due is outstanding.

12. The Applicant is entitled to the order sought of repossession.

Reasons for Decision

13. The Tribunal proceed on the basis of the written documents which were before it and on the basis of the oral representations made by the Applicant. She invited the Tribunal to grant the Order sought. The AT6 was not challenged and the Tribunal was satisfied in any event that the terms of Section 18(6) and Ground 8 of Schedule 5 of the Housing (Scotland) Act 1988 had been met. Ground 8 was a mandatory Ground of repossession. The Tribunal had nothing before it to challenge or dispute any of these matters.

14. The order for repossession of the Property was accordingly granted.

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.

Ms Shirley Evans

Legal Member/Chair

Date

19 February 2019.