



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/20/2265

Re: Property at 154 Flat A, Paisley Road, Renfrew, PA4 8DA (“the Property”)

Parties:

Mr Gurmeet Chaal, 2 Morriston Crescent, Renfrew, PA4 0XN (“the Applicant”)

Mr Alan McDougal, 154 Flat A, Paisley Road, Renfrew, PA4 8DA (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismissed the application.

Background

On 26 October 2020, the Tribunal received the present application dated 21 October 2020 under rule 65 of the Chamber Procedural Rules, being an application for an eviction order against the Respondent. The following documents were lodged along with the application:

- Copy of the tenancy agreement
- Copy notice of proceedings (form AT6)
- Copy bank statements and rent receipts
- Copy notice letter issued to the Respondent

The Tribunal issued a notice of direction to the Applicant on 8 January 2021 requiring written submissions to address why it would be reasonable for the Tribunal to dispense with the requirement for service of an AT6 notice. The Applicant responded by email on 12 January 2021. The Tribunal issued a letter to the parties dated 20 January 2021

advising them of the date, time and conference call details of today's case management discussion. In that letter, the parties were also told that they required to participate in the case management discussion and were informed that the Tribunal could make a decision 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 10 February 2021. No written representations were received from the Respondent.

Case Management Discussion

The Applicant participated in the case management discussion which took place by conference call. The discussion took place in the absence of the Respondent. The Tribunal referred the Applicant to the terms of Section 19 of the Housing (Scotland) Act 1988. The Tribunal observed that the notice of proceedings was dated 11 August 2020 and part 4, the Applicant gave notice that proceedings would not be brought before 11 February 2021. The Applicant did not advance reasons as to why it would have been reasonable to dispense with the requirement of notice, in terms of Section 19(1)(b) of the 1988 Act. Standing the terms of the notice of proceedings, the Tribunal was not satisfied that it was reasonable to dispense with the requirement of notice and therefore dismissed the application.

Reason for decision

Section 19(1) of the Housing (Scotland) Act 1988 provides that:-

- (1) The First-tier Tribunal shall not entertain proceedings for possession of a house let on an assured tenancy unless
 - (a) The landlord (or, where there are joint landlords, any of them) has served on the tenant a notice in accordance with this section; or*
 - (b) The Tribunal considers it reasonable to dispense with the requirement of such a notice.**
- (2) The First-tier Tribunal shall not make an order for possession on any of the grounds in Schedule 5 to this Act unless that ground and particulars of it are specified in the notice under this section; but the grounds specified in such a notice may be altered or added to with the leave of the Tribunal*
- (3) A notice under this section is one in the prescribed form informing the tenant that
 - (a) the landlord intends to raise proceedings for possession of the house on one or more of the grounds specified in the notice; and*
 - (b) those proceedings will not be raised earlier than the expiry of the period of 28 days, two months, three months or, as the case may be, six months (whichever is appropriate under subsection (4) below) from the date of service of the notice.**

Notwithstanding the terms of the notice of proceedings, the Applicant submitted an application under rule 65 dated 21 October 2020 which was received on 26 October 2020, which was before the expiry of the period of notice.

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.

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Legal Member: Nicola Irvine

Date: 24 February 2021