



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/20/1747

Re: Property at 49 Church Street, Glenrothes, Fife, KY7 5NQ (“the Property”)

Parties:

Mr Douglas Grant, 52 Bowhouse Drive, Kirkcaldy, Fife, KY1 1SB (“the Applicant”)

Mr Andrew Morris, 49 Church Street, Glenrothes, Fife, KY7 5NQ (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member)

Decision (in absence of the Respondent)

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

- **Background**
 1. This is an application for an order for possession of the Property on the grounds of rent arrears alleged to be owed by the Respondent to the Applicant in terms of an assured tenancy. It called for a case management discussion (‘CMD’) at 10am on 31 March 2021, by teleconference. The Applicant did not call in to the teleconference in person, but was represented by the co-owner of the Property, Mr Steven Grant. The Respondent did not call in to the teleconference and was not represented. The commencement of the CMD was delayed by 10 minutes to allow for any technical difficulty the Respondent may have been experiencing, but, by 10:10am there remained no contact from him.
 2. This matter had previously called for a CMD on 19 February 2021 at 2pm. That calling had been intimated on the Respondent by sheriff officers, but he did not lodge any response and did not appear at the CMD. An application

made by the Applicant to increase the sum sought was intimated on him by ordinary first-class post on 4 February 2021. He did not make any response to that application. An attempt to intimate this calling by recorded post was made by the Tribunal administration, but the letter was returned as 'not called for'. Further intimation was sent by ordinary first-class post on 25 March 2021. The Respondent has not sent any response to that letter, either.

3. The Tribunal considered that reasonable notice of this CMD had been given to the Respondent and that it could therefore continue in the Respondent's absence.
- Findings in Fact
4. The Applicant lets the Property to the Respondent in terms of an assured tenancy commencing on 19 December 2019.
5. In terms of that agreement, rent of £400 per month is payable by the Respondent.
6. On 7 February 2020, the Applicant served a notice to quit on the Respondent, effective on 20 March 2020.
7. Also on 7 February 2020, the Applicant served a form AT6 on the Respondent, indicating that it wished to regain possession of the Property on Grounds 8, 11 and 12 of Schedule 5 the Housing (Scotland) Act 1988 ('the Act').
8. At that date, the Respondent owed the Applicant £12,496 in rent arrears.
9. The Respondent's contractual tenancy came to an end on 20 March 2020.
10. The Respondent remains in occupation of the Property in terms of a statutory assured tenancy.
11. As of the date of the CMD, the Respondent owes the Applicant £18,296 in unpaid rent.
12. Since this application was made on 18 August 2020, the arrears of rent owed by the Respondents has increased by £3,800.

13. The arrears are not a result of any delay or failure in payment of a relevant housing benefit or universal credit.

- Reasons for Decision

14. Ground 8 of Schedule 5 to the Act is established.

15. The Tribunal considers that it is reasonable in all the circumstances to grant an order for possession. The Respondent is not paying the ongoing rent charge. The arrears are significant. They were already at that level in March 2020, prior to any impact coronavirus may have had; and they have increased by a significant amount since the application was made. While there is potentially prejudice to the Respondent in granting the order, the Tribunal observes that the order may not be enforced while the area the Property is situated in remains subject to tier 3 or 4 restrictions. The impact is therefore mitigated and it is in any event questionable whether there is any true benefit to the Respondent in his remaining in an tenancy that he appears unable to pay for.

- Decision

Order for possession 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.

N Young

31/03/2021

Legal Member/Chair

Date

