



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/22/0659

Re: 1 The Courtyard, Crawford Priory, Cupar, Fife KY14 5RA (“Property”)

Parties:

The Cochrane Farming Partnership, Estate of Crawford Priory, Cults House, Cupar, fife KY15 5RD (“Applicant”)

Gillespie Macandrew, 5 Atholl Crescent, Edinburgh EH3 8EJ (“Applicant’s Representative”)

Frances Whyte, 1 The Courtyard, Crawford Priory, Cupar, Fife KY14 5RA (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)
Elizabeth Currie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the Property should be made in terms of section 18 of the Housing (Scotland) Act 1988.

Background

The Applicant sought recovery of possession of the Property in terms of Section 18 of the Housing (Scotland) Act 1988 (“1988 Act”). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement dated 17 and 21 May 2010; an AT5 dated 10 May 2010; an AT6 dated 16 July 2021; Notice to Quit and Section 33 Notice from the Applicant's Representative to the Respondent dated 16 July 2021; royal mail proof of delivery dated 17 July 2021; statement of rent arrears; correspondence and text messages regarding payment of the rent arrears; letter from the Applicant’s Representative to the Respondent regarding change in landlord; copy partnership agreement dated 16 and 17 August 2019; Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 9 February

2022 and a certificate of service by sheriff officers evidencing service of the Application on the Respondent on 12 April 2022.

Case Management Discussion

A case management discussion took place before the Tribunal at 10am on 27 May 2022 by conference call. The Applicant was represented by Alex Robertson of the Applicant's Representative. There was no appearance on behalf of the Respondent. Mr Robertson told the Tribunal that the Applicant sought possession of the Property because of the level of rent arrears. He said that he understood that the Respondent may have applied for Universal credit. He said that the rent due for April and May 2022 had been paid. The current level of arrears was £8,400. Mr Robertson said that as far as he was aware the Respondent lived alone in the Property. He said that he was not aware of communications with the Respondent other than what had been produced to the Tribunal. Mr Robertson was not able to advise the Tribunal of what the Applicant would do with the Property if an order for possession was granted.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement for the Property dated 17 and 21 May 2010.
2. The period of the Lease was from 22 May 2010 to 21 May 2011 and month to month thereafter.
3. The rent in terms of the Tenancy Agreement was £550 per month and increased to £560 per month and then to £590 per month.
4. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
5. A Form AT6 dated 16 July 2021 was served to the Respondent on 17 July 2021.
6. The Applicant sought recovery of possession of the Property on Grounds 8 and 11.
7. The Respondent had failed to make payment of rent due in the period 1 November 2020 to 1 July 2021. The total outstanding at the date of service of the AT6 was £4,480.
8. At the date of service of the AT6 and at the date of making this Application there was at least 3 months' rent lawfully due in arrears. The basis for possession set out in ground 8 of schedule 5 to the 1988 Act were established.

9. The Respondent has persistently delayed paying rent which has become lawfully due. The basis for possession set out in ground 11 of schedule 5 to the 1988 Act were established.
10. Notice of the date of the hearing had been given to the Respondent by sheriff officer on 12 April 2022.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 18 of the 1988 Act. The basis for possession set out in grounds 8 and 11 of schedule 5 to the 1988 Act had been established. In the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an order for possession of the Property.

Decision

The Tribunal determined to make an Order for possession of the Property.

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.

Joan Devine

Legal Member
Date : 27 May 2022