

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/18/0660

Re: Property at 2/2, 1095 Cathcart Road, Mount Florida, Glasgow, G42 9XP ("the Property")

Parties:

Mr Michael Burton, 49 South Hamilton Street, Kilmarnock, Ayrshire, KA1 2DT ("the Applicant")

Mr Christopher Fielding, 2/2, 1095 Cathcart Road, Mount Florida, Glasgow, G42 9XP ("the Respondent")

Tribunal Members:

Nicola Irvine (Legal Member)

Decision (in the absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Applicant is entitled to the Order for Possession.

Background

The Applicant submitted an application seeking an order to evict the Respondent from the property at 2/2, 1095 Cathcart Road, Mount Florida, Glasgow, G42 9XP. The Tribunal intimated the application to the Respondent on 26th April 2018 and advised him of the date, time and place of today's case management discussion. In that letter, the Respondent was advised that any written representations he wished to make should be sent to the Tribunal by 16th May 2018. No written representations were received by the Tribunal. The Respondent was also told that he required to attend the case management discussion and was 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 Case Management Discussion

The Applicant was represented by Ms Laura Smith, Lettings Manager of Scottish Property Centre. The Respondent was absent. The Applicant sought to rely upon grounds 8, 11 and 12. The Applicant relied upon the rent statement produced which shows the level of rent arrears as £2,250. Ms Smith advised the Tribunal that the Respondent has not made any further payments of rent and the arrears outstanding as at today's date are £3,150.

Findings in Fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 11th July 2017. The period of the tenancy was from 6th August 2017 to 6th August 2018.
2. The rent payable was £450 per calendar month, payable in advance.
3. The Applicant served form AT6 on 15th January 2018 indicating that the Applicants intended to raise proceedings for possession on Grounds 8, 11 and 12 of Schedule 5 to the Housing (Scotland) Act 1988.
4. As at the date of service of the notice, the rent arrears amounted to £1,350.
5. As at today's date, the rent arrears amount to £3,150.

Reason for Decision

The Tribunal proceeded on the basis of the written documents which were before it. The Applicant's representative invited the Tribunal to make the Order sought. The Applicant relied upon Grounds 8, 11 and 12 of the Act. The Applicant's agent had served the form AT6. The Tribunal was satisfied that the Respondent had persistently delayed paying rent which was lawfully due and that there were rent arrears due as at the date of service of the notice and as at today's date; as at both dates, the level of rent arrears was at least three months' rent lawfully due. There was nothing before the Tribunal to indicate that the rent was unpaid as a consequence of a delay or failure in the payment of housing benefit. In all of the circumstances, the Tribunal was satisfied that Grounds 8, 11 and 12 of Schedule 5 to the Housing (Scotland) Act 1988 were established.

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.

N Irvine

Legal Member/Chair

23.05.2018

Date