

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/19/1200

Re: Property at 28 Glenalmond, Whitburn, EH47 8NS (“the Property”)

Parties:

**Mr Colin Banham, 39 Sinclair Way, Knightsbridge, EH54 8HW, represented by
Ms Nicola Banham, 59 Bankton Park East, Murieston, Livingston EH54 9BW
 (“the Applicant”)**

Mr Garry Butler, 28 Glenalmond, Whitburn, EH47 8NS (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be granted without a hearing
and made an Order for Possession of the Property.**

Background

By application, received by the Tribunal on 18 April 2019, the Applicant sought an Order for Possession under Grounds 8, 11, 12 and 13 of Schedule 3 to the Housing (Scotland) Act 1988 (“the 1988 Act”).

The application was accompanied by copies of a Short Assured Tenancy Agreement between the Parties, commencing on 7 December 2016 at a rent of £400 per month, a Form AT6 Notice dated 31 March 2019, intimating the intention to raise proceedings for possession on Grounds 8, 11, 12 and 13 and advising that proceedings would not be raised before 16 April 2019, and a rental statement showing arrears as at April 2019 of £2,900.

On 22 May 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 9 June 2019.

The Respondent made no written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the morning of 27 June 2019. The Applicant was represented by his daughter, Ms Nicola Banham, who was supported by her sister Lynsey Bryce.

The Applicant's representative told the Tribunal that no rent had been paid by the Respondent since January 2019. She asked the Tribunal to grant an Order for Possession without a hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the documentation and information it required and that it would determine the application without a hearing.

Section 18 of the 1988 Act and Ground 8 of Schedule 3 to the 1988 Act state that the Tribunal must make an Order for Possession if satisfied that, both at the date of the service of the notice under Section 19 of the 1988 Act (the Form AT6 Notice) relating to the proceedings for possession and at the date of the hearing, at least three months' rent lawfully due from the tenant is in arrears.

The evidence before the Tribunal was that the monthly rent was £400, the arrears as at the date of service of the Form AT6 Notice were £2,900 and that no payments of rent had been received between that date and the date of the Case Management Discussion. The requirements of Ground 8 of Schedule 3 to the 1988 Act had, therefore, been met and the Tribunal was bound to make an Order for Possession of the Property.

Having determined to grant the Order for Possession under Ground 8 of Schedule 5 to the 1988 Act, it was not necessary for the Tribunal to consider further the alternative Grounds included in the application.

Decision

The Tribunal determined that the application should be granted without a hearing and made 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.

George Clark

Legal Member/Chair

27 June 2019

Date