

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 (1) of the Housing (Scotland) Act 1988 (Act)

Chamber Ref: FTS/HPC/EV/18/1347

Re: Property at 18 Craigrie Terrace, Clackmannan, FK10 4ER (“the Property”)

Parties:

Mrs Jacqueline McKay, 6 Charles Street, Dunfermline, KY11 4ST (“the Applicant”)

Mr Malcolm Reynolds, Ms Lois Anderson, 18 Craigrie Terrace, Clackmannan, FK10 4ER (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction and recovery of possession be granted.

Background

This was an Application for eviction and recovery of possession in terms of section 18(1) of the Act and in particular Grounds 8, 11 and 12 of Schedule 5. The Application was lodged with the Tribunal on 30 May 2018 along with the following documents:

- (i) Tenancy Agreement dated 31 October 2015;
- (ii) Short Assured Tenancy Termination Grounds dated 31 October 2015;
- (iii) Guarantor Agreement dated 31 October 2015;
- (iv) AT6 dated 30 April 2018;
- (v) Section 11 Notice sent to Clackmannanshire Council;
- (vi) Sheriff Officer Execution of Service of AT6 dated 3 May 2018;
- (vii) AT5 dated 30 May 2015;
- (viii) Letter of 10 October 2017 from Clackmannanshire Council;

Alan Strain

- (ix) Email exchanges with the Respondent; and
- (x) Statement of Rent Arrears.

Hearing and Reasons

The case called for a Hearing on 12 September 2018. The notification of the Hearing and associated documents had been served on the Respondent by Sheriff Officer on 28 August 2018. The notification required the attendance of the Respondent at the Hearing and invited written representations by 11 September 2018.

The Applicant appeared in person. The Respondent did not appear nor did the respondent lodge any written representations. The Respondent had not sought to contact the Tribunal. The Tribunal accordingly proceeded in absence of the Respondent.

The Tribunal heard evidence from the Applicant to the effect that the Short Assured Tenancy Termination Grounds were signed by the Respondent on the same date as the Tenancy Agreement. The Applicant also provided the Tribunal with Schedule of Rent arrears as at the date of the Hearing which showed that rent arrears were currently £5,022.44. This was around 11 months' rent arrears.

The Tribunal accepted the uncontested evidence of the Applicant and considered the documentation that had been lodged with the Tribunal.

The Tribunal found that the Tenancy Agreement had been entered into on 31 October 2015 between the parties, as at the date of service of the AT6 and as at the date of the Hearing there were at least 3 months' rent in arrears. The Tribunal were satisfied that Ground 8 of Schedule 5 had been established.

The Tribunal were satisfied that an order for eviction and recovery of possession should be 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.

Alan Strain

Legal Member/Chair

Date

12 September 2018.