

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/18/1731

Re: Property at 134 Thurso Crescent, Dundee, DD2 4AX ("the Property")

Parties:

**John Street (Scotland) Limited, C/O Your Move, 22 Whitehall Crescent,
Dundee, DD1 4AU ("the Applicant")**

**Ms Rachel McWilliams, 134 Thurso Crescent, Dundee, DD2 4AX ("the
Respondent")**

Tribunal Members:

Ewan Miller (Legal Member) and Helen Barclay (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that the Applicant would be granted an order for
recovery of possession of the Property from the Respondent**

Background

The Applicant had lodged an application with the Tribunal dated 9th July 2018 in terms of Rule 66 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended.

The Application included the Lease of the Property from the Applicant to the Respondent, Form AT6 along with Sheriff Officers Execution of Service., Section 11 Notice to the relevant local authority and a statement of the rent arrears.

The Applicant alleged that there were more than 3 months rent outstanding at the date of application to the Tribunal and also at the date of the hearing. Accordingly, the Applicant sought possession under Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988.

The Hearing

The Tribunal held a hearing at Caledonia House, Greenmarket, Dundee on 19 September 2018.

Mrs Leanne Carling was present for the Applicant and was represented by Ms Angela McCracken of Messrs Bannatyne Kirkwood France, Solicitors, Glasgow.

The Respondent was present and was represented by Mr Peter Kinghorn of Dundee North Law Centre.

There had been preliminary written representations from the Respondent's representative about a prior property transaction between the parties and how this impacted on the matter before the Tribunal. He indicated, however, that the parties had now spoken and that this other matter was to be resolved out with the Tribunal. The Respondent accepted that there were rent arrears and she had agreed to move out of the Property in eight weeks time. The Applicant had accepted this.

Both representatives indicated they were happy for the Tribunal to issue an order and that the Applicant would not take any steps to enforce unless the eight week period had expired without removal by the Respondent

Findings in Fact

The Tribunal found the following facts to be established:-

- There was a lease of the Property between the parties dated on or around 27 June 2017
- There were rental arrears of more than three months at the date of the application to the Tribunal and the date of the hearing
- That Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 had been established

Reasons for Decision

The parties had reached agreement on the removal of the Respondent from the Property. It was not disputed that the necessary level of arrears was present under the Lease. Accordingly the Tribunal was obliged to grant an order for possession. The parties were both content for the Tribunal to issue an order to this effect.

Decision

The Tribunal granted an order to the Applicant for possession of the Property from the Respondent

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.

Ewan Miller

Legal Member/Chair

19/7/18
Date