

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(3) of the Housing (Scotland) Act 1988.

Chamber Ref: FTS/HPC/EV/18/0168

Re: Property at 137 Dalriada Crescent, Motherwell, ML1 3XT (“the Property”)

Parties:

Ms Edna Griffith, c/o 24/7 Property Scotland, 1257 Shettleston Road, Shettleston, G32 7NG (“the Applicant”)

Mr Andrew Simson, 137 Dalriada Crescent, Motherwell, ML1 3XT (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member) and Frances Wood (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 at 137 Dalriada Crescent Motherwell ML1 3XT be granted.

The tribunal granted an order for possession of the property at 137 Dalriada Crescent Motherwell ML1 3XT on Ground 8 of Schedule 5 of the Housing (Scotland) Act 1988 ‘the Act’ on the basis that the tribunal found the Ground to be established, in terms of s18(3) of the Act. The tribunal is not satisfied that the arrears of rent are as a consequence of a delay or failure in the payment of relevant housing benefit.

This is an application in terms of rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, “the tribunal rules”. The application was made by Ms Edna Griffith, the landlord and owner of the property at 137 Dalriada Crescent, Motherwell, ML1 3XT, “the property”.

A first hearing on 21 March 2018 was adjourned until 8 May 2018 with directions as neither the applicant nor the respondent were in attendance. It appeared to the tribunal that there may have been an administrative error in communication with the applicant. The tribunal made a direction for the applicant to lodge no later than 13 April 2018, full details of any rent owed by the respondent as at the 31 March 2018 and 23 October 2017. The applicant lodged this information with the tribunal administration on 9 April 2018.

The tribunal had before it today the following copy documents:-

1. Application dated 18 January 2018 and received by the tribunal administration on that date.
2. Copy tenancy agreement between the applicant and respondent dated 12 August 2016.
3. Rent statement detailing arrears as at September 2017.
4. Notice to quit.
5. AT 5 form dated 12 August 2016.
6. AT6 form dated 23 October 2017.
7. Execution of service of notice to quit and AT6 by sheriff officers on 25 October 2017.
8. S11 notice on local authority dated 11 January 2018.
9. Rent statement as at 16 September 2017.
10. Execution of service of hearing on 21 March 2018 on respondent by sheriff officers on 20 February 2018.
11. Execution of service of hearing on 8 May 2017 on respondent by sheriff officers on 23 March 2018.

Evidence at Hearing

The applicant attended the hearing. The respondent failed to attend. The tribunal was satisfied that the respondent received notification of the hearing by sheriff officer on 23 March 2018. The applicant gave oral evidence to the tribunal that the rent arrears now stand at £4195 as no payment of rent has been made for April 2018. The applicant gave evidence to the tribunal that she instructed her letting agent on more than one occasion to make inquiries with the respondent to ascertain if he had any entitlement to housing benefit. The respondent would not discuss the matter with the letting agents. The rent remains due and no payments have been received from the respondent since July 2017.

Findings in fact

Having heard oral evidence and taking into account the written evidence lodged, all of which was unchallenged the tribunal made the following findings in fact:-

1. The applicant is the owner and landlord of the property.
2. The applicant entered into a short assured tenancy with the respondent on 12 August 2016 for a period of 6 months until 11 February 2017 and on a monthly basis thereafter.

3. The tenancy agreement provides for the tenancy to be brought to an end on Ground 8 of schedule 5 of the Act, on the basis that at least 3 months' rent is in arrear, both as at the date of the notice of proceedings (the AT6 form) and at the date of the hearing of proceedings for possession of the property..
4. The respondent failed to make payment of rent and since August 2016 has only paid £210.
5. There is £4195 of rent outstanding as at 8 May 2018.
6. The applicant served a valid AT6 form on the respondent on 25 October 2017 dated 23 October 2017.
7. There was £2425 of rent outstanding as at the date of service of the AT6 on 25 October 2017.
8. Both as at the date of service of the AT6 notice and as at the hearing date on 8 May 2018 at least three months' rent is lawfully due from the respondent, (the tenant) to the applicant (the landlord).

Reasons

This is an undefended application for possession of property. The tribunal was satisfied that effective service of the hearing date on the respondent had been carried out. The tribunal considered the written paper work carefully. Ground 8 of schedule 5 of the Act is a mandatory ground. The tribunal was satisfied that more than 3 months arrears of rent were due both as at the date of service of the AT6 and as at the hearing date. The tenancy agreement narrated the terms of schedule 5 in full. The AT6 was valid and validly served. The tribunal heard no evidence that the failure to pay rent was as a consequence of a delay or failure in the payment of relevant housing benefit. The tribunal unanimously decided to grant the order for possession.

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.

L Ward

Legal Member Lesley A Ward

8 May 2018