

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18(1) of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/19/1451

Re: Property at 43 North Road, Dundee, DD2 5SQ (“the Property”)

Parties:

Mr Niven Phoenix, Mrs Sheena Pheonix, 16 Old Railway Close, Malmesbury, Wiltshire, SN16 9TU; 16 Old Railway Close, Malmesbury, Wiltshire, SN16 9TU (“the Applicant”)

Miss Angela Archibald, Mr Danny Low, formerly 43 North Road, Dundee, DD2 5SQ (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Applicant and the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed.

Background

1. By application dated 5 May 2019 the applicant applied to the tribunal for an order for the possession of the property and the ejection of the Respondents from the property on the grounds that they were in arrears of rent of more than three months and were persistently late in paying rent all in terms of grounds 8 and 11 of Schedule 5 of the Housing (Scotland) Act 1988. The applicant provided the tribunal with copies of the tenancy agreement, Notice to Leave, Forms AT6, Section 11 Notice and rent statement.
2. By Notice of Acceptance dated 3 June 2019 a legal member of the tribunal with delegated powers accepted the application and a case management discussion was assigned.
3. The original case management discussion was postponed as Sheriff Officers were unable to effect service on the Respondents as they had vacated the property. A new case management discussion was assigned and intimation given by Service by

Advertisement on the Housing and Property Chamber website. A certificate of service was issued confirming service on 9 August 2019.

4. Intimation of the case management discussion was sent to the Applicants' representatives Pavillion Properties, Dundee on 28 June 2019. Intimation was also sent to the Respondents by email. The Respondent Mr Low contacted the tribunal administration by telephone to confirm he had vacated the property but did not provide any further information.

The Case Management Discussion

5. A case management discussion was held at Dundee Carers Centre on 9 August 2019. There was no attendance or representation by either party. There was no explanation for non-attendance given to the tribunal in advance of the case management discussion.

6. In the circumstances the tribunal decided to dismiss the application for want of insistence.

Decision

7. The application was dismissed for want of insistence.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

G.H

Legal Member/Chair

Date

9 August 2019