

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/18/0367

Re: Property at 6/4, 15 Castlebank Place, Glasgow, G11 6BJ (“the Property”)

Parties:

Mr Jason Barr, 40 Cortmalaw Crescent, Glasgow, G33 1TB and Mr David Montgomery, Lynville, Keir Street, Dunblane, FK15 9BP (“the Applicants”)

Ms Tiffany McAdam, 6/4, 15 Castlebank Place, Glasgow, G11 6BJ (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision (in the absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to the Order for Possession.

Background

The Applicants submitted an application seeking an order to evict the Respondent from the property at 6/4, 15 Castlebank Place, Glasgow, G11 6BJ. The Tribunal held a case management discussion on 24th April 2018, which proceeded in the absence of the Respondent. Reference is made to the summary of that case management discussion. The Tribunal fixed a further case management discussion for 23rd May 2018 and advised the Respondent by letter of 1st May 2018 of the date, time and place of today’s case management discussion. A copy of the most recent rent statement was enclosed with that letter. In that letter, the Respondent was advised that any written representations she wished to make should be sent to the Tribunal by 15th May 2018. The Respondent sent an email to the Tribunal on 16th May in which she advised, amongst other things, that the landlord would receive payment of £600 every 4 weeks which represented her housing benefit claim. The Respondent

was also told that she required to attend the case management discussion and was informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair.

The Case Management Discussion

This case called alongside the case under chamber reference FTS/HPC/CV/18/0369. The Applicants were represented by Mr de Ste Croix, Solicitor. The Respondent was absent. The Applicants sought to rely upon grounds 8, 11 and 12. Mr de Ste Croix produced an up to date rent statement The Applicants relied upon the rent statement produced which shows the level of rent arrears as £5,660. Mr de Ste Croix produced an updated rent statement showing the arrears now stand at £5,710. The Tribunal noted from the written representations lodged by the Respondent that the Respondent received payment of housing benefit from 10th April 2017 to 5th February 2018 totalling £3,032.87. Mr de Ste Croix advised the Tribunal that the Respondent did not pass those payments onto the Applicants. He confirmed that the most recent payments made to the rent account have been housing benefit payments in the sum of £600 and have been paid directly by the local authority to the Applicants.

Findings in Fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 22nd June 2007. The period of the tenancy was from 1st August 2007 to 31st July 2017.
2. The rent payable was £650 per calendar month, payable in advance.
3. The Applicant served notice to quit on 30th October 2017 indicating that the Applicant required possession of the property on 1st February 2018.
4. The Applicant served form AT6 on 30th October 2017 indicating that the Applicants intended to raise proceedings for possession on Grounds 8, 11 and 12 of the Housing (Scotland) Act 1988.
5. As at the date of service of the notice, the rent arrears amounted to £5,360.
6. As at today's date, the rent arrears amount to £5,710.

Reason for Decision

The Tribunal proceeded on the basis of the written documents which were before it. The Applicants' solicitor invited the Tribunal to make the Order sought. The Applicants relied upon Grounds 8, 11 and 12 of the Act. The notices had been properly served. The Tribunal was satisfied that the Respondent had persistently delayed paying rent which was lawfully due and that there were rent arrears due as at the date of service of the notice and as at today's date; as at both dates, the level of rent arrears exceeded three months' rent lawfully due. There was nothing before

the Tribunal to indicate that the rent was unpaid as a consequence of a delay or failure in the payment of housing benefit. The written representations lodged by the Respondent indicated that the Respondent had received payment of housing benefit totalling £3,032.87 over a 10 month period. During that time, the only payment of rent made directly by the Respondent was in the sum of £110. In all of the circumstances, the Tribunal was satisfied that Grounds 8, 11 and 12 of Schedule 5 to the Housing (Scotland) Act 1988 were established.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

NICOLA IRVINE

Legal Member/Chair

23.05.2018

Date