



**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 and Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the 2017 Rules)**

**Chamber Ref: FTS/HPC/EV/19/0868**

**Re: Property at 4 Patterton Drive, Barrhead, Glasgow, G78 2NN (“the Property”)**

**Parties:**

**Woodhill Property Investments Limited, C/O 9 MacNeil Drive, East Kilbride, Glasgow, G74 4TR (“the Applicant”)**

**Miss Katrina McCartney, 4 Patterton Drive, Barrhead, Glasgow, G78 2NN (“the Respondent”)**

**Tribunal Members:**

**Martin McAllister ( 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 of possession of the Property be granted in favour of the Applicant.**

**Hearing on 4<sup>th</sup> October 2019**

**Mr John Cadger of Woodhill Property Investments Limited, the applicant, attended with Ms Jacqueline McLellan and Ms Daryl Harper from Castle Residential, the letting agents.**

**The Respondent was not present. We had regard to Rules 24(1) and 29 of the 2017 Rules and were satisfied that appropriate intimation of the hearing date had been made to the Respondent. We proceeded with the hearing.**

## **Background**

**This is an application for recovery of the Property which is let under a short assured tenancy. There is also another application (19/0869) which is an application under Rule 70 for payment of arrears of rent.**

**There have been two case management discussions and, at the most recent on 23 August 2019, a Direction was issued under Rule 16 of the 2017 Rules.**

**The Direction required the Applicant to address a number of matters:**

- 1. Any evidence they can provide regarding the respondent's housing benefit position including any correspondence received from the local authority regarding the respondent's housing benefit.**
- 2. A copy of any rent statement attached to the AT6 dated 19 September 2018.**
- 3. A list of any witnesses the applicant intends to lead at the hearing on 4 October 2019.**
- 4. Any witness statement by the agent who served the AT6 on the respondent giving details of what further information was attached to the AT6.**

**No representations had been received in respect of the Direction. After a short adjournment the Applicants addressed the Direction as follows:**

- 1. We were shown a letter from the local authority dated 1<sup>st</sup> April 2019 which showed that Housing Benefit was being paid to the Respondent and that thereafter it would be paid direct to the letting agent. Ms McLelland said that the Respondent had been in receipt of benefits from the commencement of the tenancy and that, as far as she knew, there had been no issue with these. She said that the payments had been changed so that they would come direct to the letting agent because the Respondent had fallen into arrears. She said that a payment of £462.31 continues to be paid every four weeks.**
- 2. A copy of an email addressed to the Respondent and dated 13<sup>th</sup> September 2018 was produced which contained a rent statement showing the outstanding rent at that time to be £2,138. Ms McLelland and Ms Harper said that this accompanied the AT6 form which had been served on the Respondent.**
- 3. There were no witnesses to be led other than the Applicant and the two representatives from Castle Residential.**
- 4. Ms Harper said that the rent statement contained within the email of 13<sup>th</sup> September accompanied the AT6 which was sent by recorded delivery to the Respondent and that a copy of evidence of posting was with the Tribunal.**

## **Preliminary Matters**

**Ms McLelland produced an email from the Respondent dated 14<sup>th</sup> September 2019 in which it is stated that her application to the Council for housing is being progressed.**

## **Findings In Fact**

- 1. The parties entered into a short assured tenancy agreement in respect of the Property which was dated 7<sup>th</sup> November 2017. The monthly rent was £525.**
- 2. An AT6 Form was served on the Tenant on 19<sup>th</sup> September 2018 at which point there was arrears of rent of £2,498.**
- 3. The amount of arrears of rent on 19<sup>th</sup> September 2018 was £2,498 which was more than three times the level of monthly rent which was £575.**
- 4. The level of rent arrears as at the date of the Hearing is in excess of £4,424.88, which was the sum intimated to the Tribunal as owing at 1 July 2019 and noted in the CMD of 23 August 2019.**

## **Reasons for Decision**

**Ms McLelland, Ms Harper and the Applicant were consistent in stating that the rent arrears as at 19<sup>th</sup> September 2018 was £2,498. The rent statement which was produced evidenced this. They were also consistent in stating that the rent arrears as at 23<sup>rd</sup> August 2019 was £4,424.88. They indicated that the level of arrears had grown since that date but they did not produce a further rent statement. We found the evidence of the Applicant, Ms McLelland and Ms Harper to be credible. We accepted that there are at least three months' rent due as at today's date.**

**The letter from the local authority showed that Housing Benefit is being paid to the Respondent and we accepted the evidence of Ms McLelland that, as far as she was aware, the existence of rent arrears was not due to any issue arising from non- payment or delay in payment of Benefits.**

## **Discussion**

**Ground 8 of Part 1 Schedule 5 of the Housing (Scotland) Act 2006 states that a mandatory ground for an order of possession of a property is that, both at the date of service of the Notice under Section 19 of the said Act and, at the date of the Hearing, at least three months' rent lawfully due from the tenant is in arrears. On the basis of the evidence we found this ground to be met and made an order for possession of the Property.**

## **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.**

**Martin J. McAllister  
Legal Member/Chair**

**7<sup>th</sup> October 2019**