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/18/1926

Re: Property at 1/2, 223 Cumbernauld Road, Dennistoun, Glasgow, G31 2UF ("the Property")

Parties:

Mrs Gillian Dixon-Spain, Salen Lismore, Oban, PA34 5UL ("the Applicant")

Mr Michael Loughran, 1/2, 223 Cumbernauld Road, Dennistoun, Glasgow, G31 2UF ("the Respondent")

Tribunal Member:

Nicola Irvine (Legal Member), Elaine Munroe (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

The Applicant submitted an application seeking an order to evict the Respondent from the property at 1/2, 223 Cumbernauld Road, Dennistoun, Glasgow. The Tribunal intimated the application to the parties by letter of 4th September 2018 and advised them of the date, time and place of today's hearing. In that letter, the parties were also told that they required to attend the hearing and were 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 Hearing

The Applicant was represented by Mrs Gallaghar from 1 Stop Properties (Glasgow) Limited, who was accompanied by her colleague, Stuart Jamieson. The hearing proceeded in the absence of the Respondent. Mrs Gallaghar advised that the Applicant seeks to rely upon Section 18 of the Housing (Scotland) Act 1988 and in particular, grounds 8, 11 and 12 of schedule 5 of the Act. The Applicant's position was that ground 8 was established on the basis that more than 3 months rent arrears were outstanding as at the date of service of the section 19 notice, and as at today's hearing. The Applicant's representative submitted that ground 8 of schedule 5 of the Act was established.

Findings in Fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 2nd December 2016. The period of the tenancy was from 2nd December 2016 to 2nd June 2017. Thereafter, the tenancy continued by tacit relocation.
2. The rent payable was £450 per calendar month, payable in advance.
3. The Applicant's agent served notice in terms of Section 19 of the Housing (Scotland) Act 1988 along with a notice to quit on 4th July 2018.
4. The rent arrears due by the Respondent as at the date of service of the Section 19 notice amounted to £1,350, which equated to 3 months' rent.
5. The rent arrears due by the Respondent as at today's hearing amounted to £2,250.

Reason for Decision

The Tribunal proceeded on the basis of the written documents which were before it. The Applicant's representative invited the Tribunal to make the Order sought. The Section 19 notice had been properly served. The Tribunal was satisfied that ground 8 had been established, which is mandatory. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

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

26.09.2018

Date