



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 18 of the Housing (Scotland)
Act 2018**

Chamber Ref: FTS/HPC/EV/18/3293

Re: Property at 16 Laxford Road, Glenrothes, KY6 2EB (“the Property”)

Parties:

Ms Yvonne Gray, 4 The Row, Letham, Cupar, Fife (“the Applicant”)

**Mr Evgeniy Batchvarov, Ms Ivana Mitsina, 16 Laxford Road, Glenrothes, KY6
2EB (“the Respondents”)**

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant was entitled to an order against the
Respondents for the possession of the property and the ejection of the
Respondents from the property.**

Background

1. By application dated 6 December 2018 the Applicant’s representatives Robert F MacDonald, Solicitors, 11 Wemyssfield, Kirkcaldy applied to the Tribunal for an order for possession of the property and the ejection of the Respondents from the property in terms of Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”) and Grounds 8, 11 and 12 of Schedule 5 of the 1988 Act.
2. The Applicant’s representatives provided the Tribunal with a copy of the Tenancy Agreement, Notice to Quit, AT6 and Schedule of rent arrears.
3. The Applicant’s representatives subsequently by letter dated 11 December 2018 provided the Tribunal with a copy of a Section 11 Notice sent to Fife Council.

4. Following further correspondence between the Tribunal and the Applicant's representatives by Notice of Acceptance dated 1 March 2019 a legal member with delegated powers accepted the application and a case management discussion was assigned.
5. Intimation of the case management discussion was given to the Applicant's representative by post on 20 March 2019 and to the Respondents by Sheriff Officers on 21 March 2019.

The Case Management Discussion

6. The case management discussion was attended by Mr Robert MacDonald on behalf of the Applicant. There was no appearance by the Respondents. Mr Macdonald explained to the Tribunal that he had instructed Sheriff Officers to serve a Charge for Payment on the Respondents in respect of a previous order granted by the Tribunal against the Respondents for arrears of rent. He had received a report from the Sheriff Officers to the effect that when they attended at the property at the beginning of April the property appeared to be empty and they believed from making enquiries that the Respondents had returned to Bulgaria. In the circumstances as it nevertheless appeared that there had been proper service of the application on the Respondents by Sheriff Officers on 21 March the Tribunal continued with the case management discussion in the absence of the Respondents in accordance with Rule 29 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations").
7. Mr MacDonald referred the Tribunal to the copy of the Short assured tenancy Agreement lodged with the application and confirmed that the lease had commenced on 1 December 2013. The rent was £650.00 per month. The tenancy had been initially for 6 months and then from month to month thereafter.
8. Mr Macdonald referred the Tribunal to the Form AT6 and notice to quit that had been served by Sheriff Officers on the Respondents on 28 September 2018 and confirmed that the grounds for possession were as stated in the application namely grounds 8, 11 and 12 of Schedule 5 of the 1988 act. He confirmed that in addition to the arrears of rent that had been outstanding when the tribunal had granted a previous order for payment in the sum of £5150.00 a further £3300.00 of arrears had been due when the application was lodged and since then there had been no payments made by the Respondents and a further £2600.00 had become due. The Respondents were therefore many months in arrears and the terms of Ground 8 of Schedule 5 was satisfied as were grounds 11 and 12.
9. Mr Macdonald confirmed that the Section 11 notice had been sent to Fife Council and moved the Tribunal to grant the order sought.

Findings in Fact

10. The parties entered into a Short Assured Tenancy Agreement that commenced on 1 December 2013 and endured for a period of six months and then continued on a month to month basis thereafter.
11. The Respondents accrued rent arrears as at 28 September 2018 of £6450.00 when a form AT6 and Notice to Quit was served on them by Sheriff Officers.
12. The Respondent accrued subsequent rent arrears of £4550 as at the date of the case management discussion.
13. The Applicant is entitled to possession of the property and the ejection of the Respondents as Grounds 8,11 and 12 of Schedule 5 of the 1988 act have been satisfied.

Reasons for Decision

14. The Respondents have not paid any rent for about 17 months. They have not offered any explanation.
15. Form AT6 and other notices have been properly served by Sheriff Officers.
16. Intimation of the proceedings has been made to the Respondents by Sheriff Officers.
17. Grounds 8, 11 and 12 of Schedule 5 of the 1988 Act have been satisfied and the Applicant is therefore entitled to the order sought.

Decision

18. The Applicant is entitled to an order against the Respondents for possession of the property and the ejection of the Respondents.

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.

Graham Harding

Legal Member/Chair

8 April 2019
Date