

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(4) of the Housing (Scotland) Act 1988.

Chamber Ref: FTS/HPC/EV/18/0207

Re: Property at Flat 23 Glenlednock Drive, Cumbernauld, Glasgow, G68 0EJ ("the Property")

Parties:

Places For People Homes Ltd, C/O Touchstone, Stanley House, Clarence Dock, Leeds, LS10 1PZ ("the Applicant")

Mr Adam Breingan, Ms Emma Goold, Flat 23 Glenlednock Drive, Cumbernauld, Glasgow, G68 0EJ ("the Respondent")

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for possession of the property at Flat 23 Glenlednock Drive Cumbernauld G68 0EJ.

The tribunal granted an order for possession of the property at Flat 23 Glenlednock Drive Cumbernauld G68 0EJ on Ground 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988 on the basis that the tribunal has found the grounds to be established and it is reasonable to do so, in terms of s18(4) of the Housing(Scotland) Act 1988.

This is an application in terms of Rule 65 of the First –tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 'the tribunal rules'. The application was made by Patten and Prentice solicitors on behalf of Places for People Limited, landlords of the property at Flat 23 Glenlednock Drive Cumbernauld Glasgow G68 0EJ.

The tribunal had before it the following copy documents:-

1. Application dated 24 January 2018 and received by the Tribunal on 25 January 2018.
2. Copy tenancy agreement dated 2 June 2017.
3. Rent statement detailing arrears as at 31 January 2018.
4. Notice to quit dated 14 December 2017.
5. S33 notice dated 14 December 2017.
6. Form AT6 dated 14 December 2017.
7. Execution of service of AT6, notice to quit and s33 notice dated 14 December 2017.
8. S11 notice on local authority dated 24 January 2018.

Case management discussion

The respondents did not attend the case management discussion. The tribunal had sight of the execution of service by sheriff officers dated 26 February 2018 and was satisfied that the respondents, Ms Emma Gould and Mr Adam Breingan had received notice of the hearing and had failed to attend.

The applicants were represented by Ms Claire Mullen who appeared as local agent for Patten and Prentice solicitors.

Ms Mullen sought to lodge an updated rent account which gave the rent arrears which had accrued since the application was made. The tribunal allowed the updated account to be lodged.

The tribunal heard detailed submissions from Ms Mullen in connection with the application.

In relation to ground 11 Ms Mullen stated that the rent account lodged with the application gave full details of the rent arrears which had accrued since November 2017. The October payment had been made a few days late on 5 October 2017. Rent was due on the first of the month. No payments had been made since November 2017 and in Ms Mullen's submission, the respondents had persistently delayed in paying rent in terms of Ground 11. Ms Mullen invited the tribunal to find ground 11 to be established.

In relation to ground 12, Ms Mullen's submissions were that at the date proceedings were raised, ie the 25 January 2018, some rent lawfully due from the tenant was unpaid. She also submitted that as at the date of service of the form AT6 the sum of £1150 was due in arrears. Ms Mullen therefor invited the tribunal to find that ground 12 to be established.

Ms Mullen then went on to make submissions in relation to the reasonableness of making the order in terms of s18(4) of the Housing (Scotland) Act 1988. Her submission was that the applicants had written and emailed the respondents on several occasions since the application was made. The respondents had failed to make payment towards the arrears and around the end of February 2018 the respondents contacted the applicants to state that they were moving out of the

property and planned to return the keys. It is the applicant's position that to date the keys have not been returned and rent continues to accrue. The applicants' understanding is that one of the respondent's is in employment and there is no entitlement to housing benefit. Ms Mullen invited the tribunal to grant the order sought on the basis that in all of the circumstances it is reasonable to do so.

Findings in fact

The tribunal considered the oral submissions made and considered the written documentation referred to above.

The tribunal finds in fact that:-

1. The applicants are the owners and landlords for the property.
2. The applicants entered into a short assured tenancy with the respondents in June 2017 for a period of 2 June 2017 until 1 December 2017 and on a calendar month thereafter.
3. The respondents paid rent each month on time until October 2017 when the payment was a few days late. Nothing has been paid by the respondents since.
4. The respondents are in arrears of rent to the sum of £2875 pounds as at the 1 March 2018.
5. The applicants served a valid AT6 notice on the respondent on 14 December 2017.
6. The respondents have persistently delayed in paying rent to the applicants since November 2017.
7. The sum of £1750 of arrears was owed to the applicants by the respondents on the date the application was made, namely, 25 January 2018.
8. The sum of £1150 of arrears of rent were owed by the respondents at the date of service of the Form AT6 on 14 December 2017.

Reasons

This is an undefended application for possession of property. The tribunal held a joint case management discussion for this application and a second application in terms of Rule 70 involving the same parties and property for rent arrears.

The application was undefended and the tribunal was satisfied that effective service had been carried out on the respondents.

The tribunal considered the written papers carefully. The tribunal heard oral arguments from the applicant's agent and was satisfied that the grounds 11 and 12 were established.

The tribunal then went on to consider whether it was reasonable to grant the order sought as required in terms of s18(4) of the Housing (Scotland) act 1988. The tribunal decided that it was reasonable in all of the circumstances to grant the order sought. Since the application was made further arrears have accrued. The respondents have made no payments of rent since November 2017. The respondent had not offered any explanation for the arrears and had to date refused to return the keys. According to Ms Mullen the respondents are a very young couple and one of them is in employment and the landlord does not consider that there is any entitlement to housing benefit. The tribunal saw no reason to adjourn consideration of the application since service had been carried out. The tribunal accordingly granted the order sought.

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.

Lesley Ward
Legal Member/Chair

28 March 2018
Date