

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/18/0102

**Re: Property at Block A - 2nd Floor, Flat 2, Eagle Avenue, Newton Mearns, G77
6ZR ("the Property")**

Parties:

QSH Property LLP, 33 Holborn, London, EC1N 2HT ("the Applicant")

**Mr John Laird, Ms Maria Boyle, Block A - 2nd Floor, Flat 2, Eagle Avenue,
Newton Mearns, G77 6ZR ("the Respondent")**

Present:

The Applicant was represented by Miss McQuarrie, TC Young, Solicitors and she was accompanied by an observer, Miss Caldwell. The Respondent, John Laird, was present. The Respondent, Miss Boyle, did not appear and was not represented. Molly Bell, Clerk to the Tribunal was also in attendance.

Tribunal Member:

Alison Kelly (Legal Member)

Order Sought By The Applicant

The Applicant sought an order for eviction of the Respondents based on Grounds 8, 11 and 12 of Schedule 5 Part 1 of the Housing (Scotland) Act 1988 ("the Act").

Summary of Discussion

The Tribunal Member explained the purpose of the Case Management Discussion, in terms of Rule 17 of the Chamber Procedure Rules, to the parties and also explained that, after hearing from each side, she could make a decision at the Case Management Discussion.

All parties introduced themselves. Mr Laird confirmed that he and Miss Boyle had separated in November 2017, but that Miss Boyle was well aware of the Application and was aware of today's hearing. As service had been properly effected by Sheriff Officers the Case Management Discussion was able to proceed.

Miss McQuarrie addressed the Tribunal first. Her instructions on behalf of the Applicant was to move for an order for eviction, primarily based on Ground 8, in that at the date of service of the notice under section 19 of the Act relation to proceedings for possession, and at the date of the hearing, at least three months rent lawfully due was in arrears.

She advised that Form AT6 dated 11th August 2017 was served on the Respondents. At that date the arrears stood at £2129.75, representing 4 months arrears. A payment of £2129.75 was received from the Respondents on 21st August 2017, but immediately thereafter arrears again started to accrue. Only two further payments of rent had been received from the Respondents, £511.57 on 30th October 2017 and £511.57 on 28th February 2018. At the time the Application was made, 11th January 2018, the arrears stood at £2130.68, also representing 4 months arrears, and are now at £2676.01.

She submitted that Ground 8 is a mandatory ground and that as the criteria for Ground 8 had been met, the Tribunal had to grant the order. The Application also included Grounds 11 and 12, which were discretionary grounds, but she said that these grounds were her fall back position.

Mr Laird confirmed that he agreed with the figures given in relation to arrears. He advised that he had experienced some financial difficulties caused by his ex wife, and had also been working for an agency where his hours were not guaranteed. He had separated from Miss Boyle in November 2017. He confirmed that he had applied for Housing Benefit initially, but had income which was £7 over the threshold for qualification. He had contacted the Applicant to advise them of his difficulties but they had wanted full payment of the amount outstanding. He thought he might be in a position to pay off the arrears very soon and he had someone who was trying to help him with that. He now had housing benefit in payment, although he did not have an paperwork with him to prove that. The Tribunal enquired if he was likely to receive a backdated payment, but he thought that if he did it would only be for one month.

The Tribunal enquired of Miss McQuarrie if The Applicants would consider the offer of payment, but she said that her instructions were to move for the eviction order. The Applicants did try to discuss matters with tenants after eviction orders were granted.

Findings in Fact

1. The Tribunal found that at the date of the Notice served in terms of section 19 of the Act the arrears were £2129.75, which amounted to in excess of 4 months rent.

