



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 19 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/22/2969

Property: 8 Fintry Place, Irvine, North Ayrshire, KA11 1JB

Parties:

Peter Murphy, residing at 198 Hockley Road, Rayleigh, SS6 8ET (“the Applicant”)

Suzanne Kirkland, residing at 8 Fintry Place, Irvine, North Ayrshire, KA11 1JB (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 19 of the Housing (Scotland) Act 1988 under Grounds 8, 11, & 12.

Background

The Applicant seeks recovery of possession of the Property in terms of Section 19 (Grounds 8, 11, & 12) of the Housing (Scotland) Act 1988 (“the Act”). The Applicant lodged with the Tribunal Form E. The documents produced included a Short Assured Tenancy agreement, A notice to quit and form AT6 dated 13/05/2022, a s.11 Notice, and a schedule of unpaid rental. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 10.00am on 28 March 2023. The Applicants were represented by Ms G Matthew of Bannatyne, Kirkwood, France, solicitors. The respondent was represented by Mr A Meek of CHAP.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a short assured tenancy agreement for the Property dated 30 July 2010. In terms of the tenancy agreement the respondent agreed to pay rental at the rate of £495.00 per month.

2. The respondent fell into arrears of rental in January 2022. Since then, she has struggled to maintain prompt and regular payments of rental. At the date of application there were arrears of rent totalling £3,125.22. At today's date there are rent arrears totalling £6,146.22

3. On 13 May 2022 the applicants served a notice to leave and form AT6 on the respondent. On 22 August 2022 the applicant submitted this application to the tribunal.

4. The monthly rent is £495.00. At the date of application there were more than 6 months arrears of rental. At today's date rental payments are more than 12 months in arrears.

5. The respondent offers no resistance to the application for an order for repossession of the property. The respondent has now secured alternative rented accommodation from the local authority, and has removed from the property.

6. There is no suggestion that the respondent is in arrears of rent either wholly or partly as a consequence of a delay or failure in the payment of a relevant benefit.

7. It is reasonable to grant an order for repossession of the property.

Reasons for the Decision

8. The Tribunal determined to make an Order for possession of the Property in terms of section 19 of the Housing (Scotland) 1988. The basis for possession set out in Grounds 8, 11, & 12 of the Act are established.

9. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 19 of the Housing (Scotland) 1988. The basis for possession set out in Grounds 8, 11, & 12 the Act are established.

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.

Paul Doyle

27 March 2023

Legal Member

