



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 (“the Act”)

Chamber Ref: FTS/HPC/EV/18/0212

Re: Property at 56 McPherson Crescent, Airdrie, ML6 8XL (“the Property”)

Parties:

Ms Mary Marilyn Vallely, 29 McLachlan Gardens, East Lothian, EH32 9FQ (“the Applicant”)

Mr Jamie Patterson, 56 McPherson Crescent, Airdrie, ML6 8XL (“the Respondent”)

Tribunal Members:

Steven Quither (Legal Member) and Gordon Laurie (Ordinary 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 be granted under s33 of the Act

BACKGROUND

1. This is an application under Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the “Regulations”) for an order for repossession of the Property.
2. The tenancy was an Assured Tenancy of the Property between Mary Marilyn Vallely as Agent for the owner and the Respondent and commenced on 30 May 2017 for a 6 month period to 30 November 2017 and then continuing on a monthly basis till brought to an end by either party upon giving 2 months notice. The rent was agreed at £295 per calendar month, payable on the 1st of each month, in terms of which the first payment was made on 30 May 2017 and then on each of 1 July, August and September 2017, which was the last payment made.
3. The Application was made on 25 January 2018 and comprised:--

- (a) Tenancy Agreement
- (b) Form AT6 confirming Grounds 8, 11 & 12 were being relied upon
- (c) Sheriff Officers' Execution of Service re Notice to Quit and AT6
- (d) Rent Statement
- (e) S11 Notice under the Homelessness Etc. (Scotland) Act, with confirmation of intimation on North Lanarkshire Council on 25 January 2018.

4. Notice of the Application and Hearing on 2 May 2018 was given to the Respondent by Sheriff Officer on 9 April 2018, per Certificate of intimation provided to the Hearing.

THE HEARING

5. Said Hearing duly took place on 2 May. Only the Applicant was represented. Her agent confirmed she was unaware of any representations having been made to the Applicant in respect of the Application or rent arrears forming the basis of same. Similarly, no such representations appeared to have been lodged with the Tribunal, as the Respondent was entitled and invited to do in the Notice of the Hearing served on him, referred to in the preceding paragraph.
6. The Applicant's Agent confirmed she was seeking orders be made on all 3 Grounds referred to, of which the first (Ground 8) was a mandatory ground and the other 2 (Grounds 11 and 12) were discretionary. She asked the Tribunal to consider it would be reasonable to find Grounds 11 and 12 established on the basis that by the hearing date no rent had been paid for 8 months, nor any explanation provided for said failure. She was asked and specifically confirmed that she was unaware of any Housing Benefit issues which might impact upon the Respondent's ability to pay rent.

FINDINGS IN FACT

7. The parties entered into a Tenancy Agreement as above stated and, as at the date of the Hearing, the Respondent was in 8 months arrears of rent, in the total amount of £2360.

REASONS FOR DECISION

8. Having regard to the documentation and information lodged in support of the Application and further provided at the Hearing the Tribunal considered all relative requirements as to notice, intimation etc. had been complied with and accordingly the order under (mandatory) Ground 8 could be made.
9. In these circumstances also and on the basis of 8 months rent being due as at the date of the Hearing, the Tribunal considered it reasonable to grant the orders sought under (discretionary) Grounds 11 and 12.

DECISION

10. To grant the order for possession based on Grounds 8, 11 and 12 of Schedule 5 of the Act, having found those grounds to be established and for it to be reasonable to grant the order insofar as based on grounds 11 and 12, Ground 8 being a mandatory ground

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.

SR Quither

SR QUITHER
Legal Member/Chair

Date 2 MAY 2018