



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/23/1097

Re: Property at 3/2 42 South Woodside Road, Kelvinbridge, Glasgow, G4 9HG (“the Property”)

Parties:

Mr Stephen Sherwin, Hill House, 10 Portesham Hill, Portesham, Weymouth, DT4 3EU (“the Applicant”)

Dorte Diestel, 3/2 42 South Woodside Road, Kelvinbridge, Glasgow, G4 9HG (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Mary Lyden (Ordinary Member)

This hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application for Recovery of Possession on termination of an assured tenancy under Section 18 of the Housing (Scotland) Act 1988. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

1. Attendance and Representation

The Applicant was represented by Mr Raphael Bar, DJ Alexander, John Cotton Business Centre 10 Sunnyside, Edinburgh, EH7 5RA.

The Respondent did not attend the Tribunal or provide written representations. She was served by Sheriff Officer on the 1st August 2023.

2. Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order against the Respondent for possession of the Property under section 18 of the Housing (Scotland) Act 1988.

3. Preliminary Matters

The Applicant’s representative said there had been no recent contact with the Respondent. He had tried himself regular phone calls to her and emails to her alongside colleagues also trying to do so. He has spoken to his accounts team today in case of any change and he said there had been no contact from her. The Applicant’s representative said that his team have carried out welfare checks but nothing was found and there was signs of continued residence noted.

The Applicant’s representative had lodged an up to date rent statement dated 7th August 2023 showing the rent arrears as at the date of the hearing 31st August 2023 to be £8182.26. The Letting agent is still sending regular rent statements to the Respondent and some are by recorded delivery.

4. Case Management Discussion

It was confirmed that the Applicant sought an Order for Possession under section 18(1) of the 1988 Act, based on Grounds 8A, substantial rent arrears over 6 months, in terms of Schedule 5 of this Act. The Applicant’s representative further confirmed she sought that the Tribunal grant the Order on the basis of Ground 8A. He believed the Respondent lived alone and there were no dependents. The property is a 1 bedroom flat.

The rent due by the Respondent amounted to £8182.26, as at the date of the hearing on 31st August 2023, £8182.26. Rent payable per month was £516.64. The last payment to rent was in July 2022 by the Respondent. It was confirmed that the Applicant sought an Order for Possession based on Ground 8A, section 18(1) of the 1988 Act only. In support of same the Applicant’s representative referred to the fact that more than 6 months rent arrears were due.

5. Findings in Fact and Reasons for Decision

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondents had received notification of the proceedings and had not challenged same by written representations or attendance. She had been served by Sheriff Officer on 1st August 2023. The Respondent had not challenged same and appeared at the Hearing to provide submissions.**
- 2. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property. A copy Sasine title was lodged.**
- 3. The Tribunal was satisfied that the tenancy was in terms of the 1988 Act, an assured tenancy dated 26th March 2010. Rent per calendar month due was £516.64.**
- 4. The Applicants were relying on Ground 8A under Schedule 5 of the 1988 Act to make the Application. In terms of Ground 8A the Tribunal was**

satisfied that the Respondent was in arrears of rent as at the date of the Hearing to £8182.26, and that these were substantial arrears in excess of 6 months rent per calendar month. The Respondents was in arrears of rent lawfully due of £4565.78 as at the date of the relevant and valid AT6 notice dated 27 January 2023.

5. The relevant AT6 notice dated 27th January 2023 was valid and had been served and received by the Respondent by Sheriff Officer.
6. Notice to the Local Authority had been given.
7. A full Rent Statement for the property was lodged and a further updated rent statement was also lodged in advance of the hearing. Rent owed from same amounted to £8182.26 as at 31st August 2023. The Tribunal found this established that more than 6 months rent was in arrears both at the date on which the notice of intention to seek possession of the property was served and at the date of the hearing. At the date of the Hearing the arrears were £8182.26 and the last payment to rent made was in July 2022.
8. The Tribunal was satisfied it was reasonable to grant the Order in terms of the Cost of Living (Tenant Protection) (Scotland) Act 2022. The Respondent was known to live alone, the property was 1 bedroom and on welfare checks she appeared to remain in residence.
9. Accordingly in terms of Section 18 of the 1988 Act the Tribunal granted an Order against the Respondent for possession of the Property.

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.

Karen Kirk

Legal Member/Chair

Date 31/08/23

