

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(1) of the Housing (Scotland) Act 1988 and Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017

Chamber Ref: FTS/HPC/EV/18/1021

Re: Property at 109 Norman Rise, Livingston, EH54 6LZ (“the Property”)

Parties:

Brian Stewart and John Hume, c/o and represented by BS Properties, 23 South Tay Street, Dundee, DD1 1NR (“the Applicant”)

Miss Leanne Harrow, 109 Norman Rise, Livingston, EH54 6LZ (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the requirements set out in Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 have been met and that in terms of Section 18(1) of that Act, an order for possession should be made.

Background

By application received by the Tribunal on 27 April 2018, the Applicant sought an order for possession of the Property under Section 18(1) of the Housing (Scotland) Act 1988 (“the 1988 Act”).

The application was accompanied by a Form AT6 and a Notice to Quit, both dated 27 March 2018, and evidence of posting dated 28 March 2018. The Form AT6 informed the Respondent that the Applicant intended to apply to the Tribunal for an order for possession on Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act.

The application was also accompanied by a rent statement indicating that the amount due by the Respondent as at 20 April 2018 was £1,950. The monthly rent in

terms of the tenancy (which had commenced on 15 September 2016) was £650 per month. The Respondent made no written representations to the Tribunal.

The Hearing

A hearing was held at George House, 126 George Street, Edinburgh EH2 4HH on the morning of 13 September 2018. The Applicant was represented by Amber-Louise Mill of BS Properties, 23 South Tay Street, Dundee DD1 1NR. The Respondent was neither present nor represented at the hearing.

The Applicant's representative told the Tribunal that the rent for the Property remained at more than 3 months in arrears, the amount currently due being £3,150 and she produced a rent statement to that effect, dated 11 September 2018.

Reasons for Decision

The Tribunal noted that the tenancy was a Short Assured Tenancy, which had commenced on 15 November 2016 and that it had seen rent statements from the date of commencement down to 11 September 2018.

Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 requires the Tribunal to grant an order for possession where, both at the date of service of the AT6 Notice (Notice of Proceedings for Possession) and at the date of the hearing, at least three months' rent lawfully due from the tenant is in arrears.

The Tribunal was satisfied that the requirements of Ground 8 had been met, that a valid Form AT6 had been served and that, consequently, the Tribunal was required to make the order sought.

Decision

The First-tier Tribunal determined that the requirements set out in Ground 8 of Schedule 5 of the Housing (Scotland) Act 1988 have been met and that in terms of Section 18(1) of that Act, an order for possession should be made.

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.

George Clark

Legal Member/Chair
George Clark

Date

13 September 2018