

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.

Chamber Ref: HPC/EV/18/1662

Re: Property at Ground Floor Left, 83 Willowbank Road, AB11 6XD (“the Property”)

Parties:

Marnox Properties Ltd, 144 Crown Street, Aberdeen, AB11 6HS (“the Applicant”)

Mr Jacek Dabrowski, Ground Floor Left, 83 Willowbank Road Aberdeen AB116XD (“ the Respondent”).

Tribunal Members:

**Valerie Bremner (Legal Member)
Melanie Booth (Ordinary Member)**

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

This is an application in terms of Rule 65 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 (as amended) for a Possession Order in respect of the property at Ground Floor Left, 83 Willowbank Road, Aberdeen, AB11 6XD.

Mr John Logan, Director of the Applicant company attended the Hearing together with Mrs Lorna Robb, the Applicant’s representative. The Respondent did not attend the Hearing on 14th September 2018 and had not made any written representations in advance of the Hearing.

Hearing

The Tribunal had sight of the application, the tenancy agreement, the Form AT6 together with evidence of service on the Respondent, a notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 together with proof of service of this document and a schedule of unpaid rent together with an updated schedule.

The Applicant sought a Possession Order in terms of Grounds 8, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988. The Applicant made a request to proceed in the absence of the Respondent and the Tribunal agreed to this request given that the Hearing date together with the application and supporting papers had been served on the Respondent by Sheriff Officers.

The Tribunal was advised that the tenancy agreement commenced on 30 November 2017 and the rent payable to the Applicant was £380 per calendar month.

Mrs Robb explained to the Tribunal that the Respondent had not paid any rent since March 2018 and had started to fall into arrears in terms of the tenancy agreement in December 2017. He paid the rent in cash and the Applicant and his representative understood that the Respondent was in paid employment when he signed the tenancy agreement with no entitlement to welfare benefits. The Tribunal was advised that the Applicant's representative and other staff had made regular efforts to contact the Respondent to address the outstanding arrears, without any success. The Tribunal was advised that the sum of £2,390 in unpaid rent was outstanding as of September 2018.

Findings in Fact

The Tribunal found that the Respondent was due to pay rent to the Applicant in terms of a tenancy agreement commencing on 30 November 2017 and that the monthly rent due to be paid to the Applicant by the Respondent is £380. The Tribunal accepted the evidence given by Mrs Robb on behalf of the Applicant that the rent was in arrears in the sum of £2,390 and that efforts had been made to contact the Respondent to seek payment. The Tribunal found that there was no evidence to suggest that the Respondent had any entitlement to welfare benefits which might have contributed to any delay in payment of the rent. The Tribunal found that the Form AT6 advising the Respondents of the intention to take possession of the property had been properly and timeously served on the Respondent and that the tenancy agreement made reference to the grounds of eviction being relied upon by the Applicant in this application.

Reasons for Decision

The Tribunal was satisfied that the application met the requirements of sections 18 and 19 of the Housing (Scotland) Act 1988 and that a Possession Order in terms of Grounds 8,11 and 12 is appropriate.

Decision

The Tribunal made a Possession Order in favour of the Applicant in relation to the property at Ground Floor Left, 83 Willowbank Road, Aberdeen AB11 6HS.

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.

Valerie Bremner

Legal Member/Chair

14th September 2018

Date

Melanie Booth

Ordinary Member

14.9.2018

Date