

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18(1) of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/18/1565

Re: Property at 624 Castlegait, Paisley, PA1 2PT (“the Property”)

Parties:

Mr Gary Deehan, 1 Arnold Close, Barton-le-Clay, Bedfordshire, MK45 4PD (“the Applicant”)

Mr Paul Guthrie, 624 Castlegait, Paisley, PA1 2PT (“the Respondent”)

Tribunal Members:

Eleanor Mannion (Legal 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 Section 18(1) of the Housing (Scotland) Act 1988.

The Applicant was in attendance at the Case Management Discussion taking place on the 31st October 2018. The Respondent was not in attendance and he was not represented. The administration office of the First Tier Tribunal received an email from the Respondent at 14.22 on the 29th October 2018 advising that he would not be in attendance due to an ongoing family matter. He set out his position in a covering email and attached copies of correspondence between himself and the Applicant’s letting agent, Castle Residential from August 2017 to 29th October 2018 in relation to the tenancy for consideration.

The Applicant confirmed that he submitted the application himself in June 2018. Castle Residential, the letting agency he engaged managed the tenancy but he proceeded with the application. He confirmed that the Respondent’s tenancy began on 1st August 2017 and that he understood that prior to this date, the Respondent shared the tenancy with the former tenant, that they were in a relationship and that when they split up, the Respondent took over the tenancy.

The Applicant advised that the Respondent has failed to make any rental payments from the outset and that although he stated at various points he would make payments, such payments were not forthcoming. I asked the Applicant about the email from the Respondent to the letting agent dated 1st May 2018 wherein he informed the agent that he could now apply for housing benefit which would be paid directly to the letting agent each month. In that email, the Respondent asked if the letting agent would accept this as it would allow his rent to be paid each month until the end of the lease. He stated in the email that he would then be in a position to make payments towards the rent arrears from other benefit entitlements. This offer was rejected by the letting agent on the Applicant's behalf. The Applicant advised that he was not aware of the offer but that in any event, he did not believe the arrears of payment would be repaid. He pointed to the fact that no payments have been made that assurances had been made time and time again that the Applicant would receive a rental payment but this was not forthcoming. He stated that as a matter of course, the agency ask if he would accept a tenant in receipt of benefits and had they made him aware he would have said no.

An email from the Respondent to the letting agent on the 29th October 2018 confirmed that he remained in the property.

The lease confirms at Clause 3 that the rent is £450 per calendar month, payable monthly in advance. As of today's date, the rent is 15 months in arrears and at the date of application was 11 months in arrears.

I considered the correspondence the Respondent provided under cover of email dated 29th October 2018 to the administration team of the First Tier Tribunal and the various attachments thereto. I am aware of an offer from the Respondent that housing benefit would cover the rent due and owing. This offer was made on the 1st May 2018 and rejected by the Applicant's agent on his behalf on the 10th May 2018.

I considered Ground 8 in Part 1 Schedule 5 of the Housing (Scotland) Act 1988 which is one of the grounds upon which this application is made. This provides that the First Tier Tribunal "must order possession" where "Both at the date of the service of the notice under section 19 of this Act relating to the proceedings for possession and at the date of the hearing, at least three months' rent lawfully due from the tenant is in arrears." I am satisfied that this ground is established and so make an order for possession on that basis.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons

for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

E Mannion

Legal Member

31-10-18

Date