

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

Chamber Ref: FTS/HPC/EV/18/1171

**Re: Property at 19/3 St Triduanas Rest, Restalrig, Edinburgh, EH7 6NF
 (“the Property”)**

Parties:

**Picture Living Investments GP LLP c/o Touchstone at 2 Crescent Office Park, Clerks Way, Bath c/o Touchstone, 2 Crescent Office Park, Clarks Way, Bath, BA2 2AF
 (“the Applicant”)**

**TC Young, Solicitors, Melrose house, 69A George Street, Edinburgh, EH2 2JG
 (“the Applicant’s Representative”)**

**Mr Bartosz Iwinski, 19/3 St Triduanas Rest, Restalrig, Edinburgh, EH7 6NF
 (“the Respondent”)**

Tribunal Members:

Susanne L M Tanner Q.C. (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) was satisfied that Ground 8 in Part I of Schedule 5 to the 1988 Act was established by the Applicant, in that both at the date of service of the notice under Section 19 of the 1988 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; that rent arrears were not a consequence of a delay or failure in payment of relevant housing benefit or universal credit; and made an order for possession in terms of Section 18(3) of the 1988 Act.

1. The Applicant made an application to the tribunal on 14 May 2018 in terms of Section 18 of the Housing (Scotland) Act 1988 ("the 1988 Act") and Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules").
2. The Applicant sought the Respondent's eviction from the Property under Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act.
3. The Applicant lodged:
 - 3.1. a copy of the short assured tenancy agreement dated 20 April 2014;
 - 3.2. a copy of the AT6 notice dated 26 April 2018 together with proof of service on 26 April 2018 by Sheriff Officers;
 - 3.3. a rent statement for the period 20 June 2014 to 30 April 2018 which had been prepared by the Applicant;
 - 3.4. a rent statement for the period 20 June 2014 to 31 May 2018 which had been prepared by the Applicant; and
 - 3.5. a copy of the Section 11 Notice which was sent to the local authority.
4. The Short Assured Tenancy was signed by both parties on 20 June 2014. The initial term was for the period 20 June 2014 to 19 June 2015 and since then the lease has tacitly has relocated on a calendar monthly basis. The rent payable was £525 per calendar month payable monthly in advance on the 1st of each month.
5. The rent statement shows that the monthly rent increased to £550 per calendar month from 1 July 2017.
6. The rent statement for the period to 31 May 2018 showed that as at 26 April 2018 there were £1650 of rent arrears and as at the date that the Application was made on 14 May 2018 there were £2200 of rent arrears.
7. A hearing took place at George House, 126 George Street, Edinburgh on 14 August 2018. Mr McKendrick, Solicitor from the Applicant's Representative was present. The Respondent did not appear.
8. The Applicant's Representative raised a preliminary matter. Since the lodging of the Application the landlord has changed. The landlord is now Picture Living Investments LLP c/o Touchstone at 2 Crescent Office Park, Clerks Way, Bath (the same address as Places for People Limited). The Landlord Registration number is 703732/230/03041. A portfolio of properties that were owned by Places for People Limited were bought by Picture Living Investments LLP on 26 May 2018. The tribunal allowed the Application to be amended to reflect the change in ownership of the Property.

9. The Applicant's Representative was instructed to seek an order for possession at the hearing. He made submissions about the rent arrears as at the date of the hearing. The arrears have increased and are now £3850. Three more months of rent is unpaid. The outstanding amount due to Places For People Limited up to 25 May 2018 was £2064.38. From 26 May onwards there is a balance of £1785.62. Nothing has been paid by the Respondent since 29 January 2018 and nothing has been paid since the Application was lodged.
10. A valid AT6 notice in terms of Section 19 of the 1988 Act was served on 26 April 2018. On that date there were at least three months of rent arrears outstanding.
11. On the basis of the evidence lead on behalf of the Applicant, with reference to supporting documents, the tribunal was satisfied that as at 26 April 2018 there were £1650 of rent arrears due by the Respondent and that as at 14 May 2018 when the Application was lodged there were £2200 of rent arrears. As at 25 May 2018 there were £2064.38 of rent arrears due to the previous landlord. Rent arrears have continued to accrue since the transfer of ownership. As at 14 August 2018 there are £1785.62 rent arrears due to the Applicant. There is no evidence that any rent payments have been made in the period from 14 May 2018 to the date of the hearing by the Respondent or on his behalf.
12. There is no information before the tribunal to suggest that the Respondent is in receipt of any housing benefit or relevant universal credit. The Respondent has not produced any written representations or evidence relevant to Housing Benefit or universal credit. The tribunal was satisfied that any rent arrears are not a consequence of a delay or failure in the payment of housing benefit or relevant universal credit.
13. The tribunal makes the following findings-in-fact:
 - 13.1. There was a short assured tenancy between the former owner of the Property and the Respondent for the initial period 20 June 2014 to 19 June 2015 and thereafter the tenancy has continued by tacit relocation on a calendar monthly basis.
 - 13.2. Rent was initially £525 per calendar month, payable in advance on the 1st of each month. The rent increased to £550 per calendar month from 1 July 2017.
 - 13.3. The Section 19 notice (AT6) was served on 26 April 2018.
 - 13.4. As at the date of service of the Section 19 notice there were at least 3 months of rent arrears.
 - 13.5. The Property was sold to the Applicant and it became the Respondent's Landlord at the Property with effect from 26 May 2018.
 - 13.6. As at 14 August 2018 there are £1785.62 of rent arrears due to the Applicant.

- 13.7. No payments have been made by the Respondent to the Applicant's predecessor or the Applicant in the period from 29 January 2018 to date.
- 13.8. As at the date of the hearing there are in excess of three months' rent arrears lawfully due from the Respondent to the Applicant.
- 13.9. The rent arrears are not a consequence of a delay or failure in the payment of Housing Benefit or relevant universal credit.

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.

Susanne Tanner

Susanne L M Tanner Q.C.
Legal Member/Chair

14 August 2018