



**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/23/4320**

**Re: Property at Gardeners Cottage, Boleside, Galashiels, TD1 3NU (“the  
Property”)**

**Parties:**

**Inchbervis Limited, Ground Floor, 1 Cromac Quay, Belfast, BT7 2JD (“the  
Applicant”)**

**Ms Wendy Tovell, Gardeners Cottage, Boleside, Galashiels, TD1 3NU (“the  
Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the order for recovery and possession should be  
granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated . It was dated 1<sup>st</sup> December 2023. The application was submitted under Rule 65 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on grounds 11, 12 and 13 of the Housing (Scotland)(Act) 1988 (“the Act”).
2. On 30<sup>th</sup> January 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 18<sup>th</sup> March 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 20<sup>th</sup> February 2024.

3. On 31<sup>st</sup> January 2024, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 31<sup>st</sup> January 2024.

#### The Case Management Discussion

4. A CMD was held on 18<sup>th</sup> March 2024 at 2pm by teleconferencing. The Applicant not present but was represented Mr Andrew Deanshaw, Associate Solicitor, Brodies LLP. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
5. Mr Deanshaw said that there has been no communication from the Respondent since 12<sup>th</sup> September 2023. At that point the Respondent had text to say that she was prioritising moving her belongings from the Property and would complete this in two weeks. She has not returned the keys or given formal notice. While Mr Deanshaw was of the opinion that the Respondent has left the Property he accepts that she may be returning to get her post as she still has access to the Property as she has not returned the keys. Mr Deanshaw said that the neighbours have said that she has moved out. It was noted that Sheriff Officers had served these documents there and made diligent enquiries that she still lived there. He does not have a forwarding address for the Respondent.
6. The Respondent has not been paying her rent charge. The arrears are currently £6699.
7. Mr Deanshaw said that the Respondent has no known vulnerabilities. There are no known benefits issues. A Pre Action Requirement letter was sent with information should she require assistance with money advice or benefits issues.
8. The Tribunal was satisfied that it was appropriate to grant an order.

#### Findings and reason for decision

9. The parties entered into a Assured Tenancy on 24<sup>th</sup> June 2015 for a 6 months period until 23<sup>rd</sup> October 2016. The lease was signed as a Short Assured Tenancy. No AT5 could be found to be lodged though it was reference in the lease. The rent payments of £566.50 are due on the twenty fourth day of each month.
10. The Respondent persistently failed to pay her rent charge of £566.50 per month. The arrears are currently £6699.
11. The Respondent sent a text on 12<sup>th</sup> September 2023 to the Applicant's agent to say that she was to move all her belongings out within two weeks. She has not given formal notice or returned her keys.
12. There are no known outstanding Universal Credit Housing Element issues.

13. There are no grounds of reasonableness to prevent an order being granted.

#### Decision

14. The Tribunal found that grounds 11 and 12 have been established and the granted an order in favour of the Applicant. The Applicant is entitled to an Order of for recovery of possession.

#### **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.**

18<sup>th</sup> March 2024

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Legal Member/Chair

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Date