



**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/18/1363

Re: Property at 27 Colquhoun Drive, Alexandria, G83 0QR (“the Property”)

Parties:

**Miss Fiona Newton, Mr Colin Newton, Dalriada, Craignure, Isle of Mull, PA65
6AY (“the Applicant”)**

**Mr David Lockhart, Ms Danielle Mcewan, 27 Colquhoun Drive, Alexandria, G83
0QR (“the Respondent”)**

Tribunal Members:

Nairn Young (Legal Member)

Decision (in absence of the Respondent)

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

- **Background**

This is an application for an order for possession of the Property in terms of Rule 65 of the Tribunal’s Rules of Procedure. It called for a Case Management Discussion on 27 August 2018 at 2pm. The Applicants were present in person. The Respondents were not present or represented.

- **Findings in Fact**

The Property is let by the Applicants to the Respondents in terms of a short assured tenancy executed on 31 August 2016, commencing on 15 September 2016. Rent of £500 is payable in terms of the lease on a monthly basis. After an initial payment of £250 on 15 September 2016, this was due on the first of each month thereafter. Among other things, the terms of the tenancy make provision (at clause 17.5) for it to be brought to an end on Ground 8 of Schedule 5 of the Housing (Scotland) Act 1988.

The Respondents made no payment of rent in January 2017. On 18 April, 2 May and 3 July 2017, they made payments of £600. £316.45 was paid on 17 October 2017. No payment was made in November or December 2017. Otherwise, £500 was paid per month from October 2016 to the end of 2017.

On 25 November 2017, the Applicant left a letter headed, "27 Colquhoun Drive, Alexandria- Notice to Quit," at the Property, enclosing a completed Form AT6. The purported notice to quit stated that, unless £2,383.55 was paid by 8 December 2017, the tenancy agreement would be terminated on 11 December 2017. At the date the letter was left, the Respondents owed £1,883.55 in rent arrears. The Form AT6 referred to Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 as being the ground upon which recovery of possession would be sought. It stated that proceedings would not be raised any earlier than 12 December 2017.

The purported notice to quit was not validly served. It was neither served by Sheriff's Officers nor by recorded delivery. The tenancy therefore continued as a contractual tenancy and was still constituted on that basis at the time of the case management discussion.

In 2018, no payments of rent were made other than: £700 on 5 January 2018, £550 on 13 February 2018, £400 on 22 March 2018 and £300 on 18 July 2018. At the date of the case management discussion, £4435.55 in rent was outstanding. The outstanding rent is not due to a delay or failure in payment of housing benefit or universal credit.

- Reasons for Decision

A valid AT6 was served in terms of ss.19 and 54 of the Act. Ground 8 has been established by the Applicants and is a mandatory ground for making an order for possession. The other requirements of s.18 of the Act are met.

- Decision

Order for possession of the Property should be granted.

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.

Nairn Young

Legal Member/Chair

27 AUGUST 2018

Date