

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/19/2397**

**Re: Property at 11c Kerr Street, Barrhead, G78 1JS (“the Property”)**

**Parties:**

**Quality Lets, having a place of business at 20 Woodlands Grove, Kilmarnock, KA3 1TZ; 20 Woodlands Grove, Kilmarnock, KA3 1TZ (“the Applicants”)**

**Ms Angela McCann, 11c Kerr Street, Barrhead, G78 1JS (“the Respondent”)**

**Tribunal Members:**

**Andrew Cowan (Legal Member)**

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

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

**Background**

By Application dated 31<sup>st</sup> July 2019, the Applicants sought an order under section 18 of the Housing (Scotland) Act 1988 (“the Act”) and in terms of rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. On 12<sup>th</sup> August 2019 the Application was accepted by the Tribunal and referred for determination by the Tribunal.

A Case Management Discussion was set to take place on 1<sup>st</sup> October 2019 and appropriate intimation of that hearing was given to both the Applicant and Respondent. The Respondent was notified of the Application and the hearing in terms of papers served upon her by Sheriff Officers on 22<sup>nd</sup> August 2019.

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## **The Case Management Discussion**

The Case Management Discussion (CMD) took place on 1<sup>st</sup> October 2019. The Applicant was represented at the CMD by Mr Norman Macdonald.

The Respondent did not attend the CMD and no representative appeared on her behalf.

The Tribunal asked various questions of the Applicant's representative with regard to the Application and the extent of the rent arrears owed by the Respondent.

The Applicant's representative confirmed that the Applicants continues to seek an order for possession of the Property at 11c Kerr Street, Barrhead.

## **Findings in Fact**

The Applicants and the Respondent (as respectively the Landlord and the Tenant) entered into a tenancy of the property on 16<sup>th</sup> July 2015.

The tenancy was a short assured tenancy in terms of the Act.

The Respondent was obliged to pay rent of £390 per month. Payments of monthly rent were due on the 28<sup>th</sup> of each month.

The Respondent failed to make full payment on rent due during the term of the Lease. As at 28<sup>th</sup> June 2019 the Tenant had accrued arrears of rent in the sum of £3541.

On 9<sup>th</sup> May 2019, the Applicant served upon the Respondent the notice of proceedings for possession required by section 19 of the Act. This notice was in the Form AT6 and set out the ground for eviction which the Respondent intended to rely upon. The Applicant also served a Notice to Quit upon the Applicant on the same date.

The grounds for eviction narrated in the Form AT6 included ground 8 (being a ground contained within the schedule 5 of the Act).

The ground requires there to be three months' rent arrears at the date of the service of the Form AT6 and at the date of the hearing.

As at the date of service of the Form AT6, the Respondent was in arrears of rent due in the sum of £1750. The arrears due by the Respondent exceeded three months' rent as at that date.

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As at the date of the CMD, the Respondent had failed to make any further payments for rent due. As at the date of the CMD the rent arrears had exceeded £3541 (which is in excess of three months' rent arrears).

The ground for eviction was accordingly established.

### **Reason for Decision**

The order for possession sought by the Applicants was based on a ground specified in the Act and properly narrated in the notice served upon the Respondent. The Tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the Applicant was entitled to seek recovery of possession based upon that ground and the relevant terms of the tenancy agreement which had been lodged with the Application.

The Tribunal accepted the evidence of the Applicant with regard to the non-payment of rent by the Respondent. The Applicant was entirely credible.

The ground relied upon the Applicant is a mandatory ground. In terms of section 18(3) of the Act, where the Tribunal is satisfied that the ground has been established the Tribunal shall grant the order of possession sought. The Tribunal accordingly granted the order of possession.

### **Decision**

The order for recovery of possession is 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.**

Andrew Cowan

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Legal Member/Chair

1/10/19  
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Date