

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(1) of the Housing
(Scotland) Act 1988**

Chamber Ref: FTS/HPC/EV/19/3035

**Re: Property at 13 Kildonan Court, Newmains, Wishaw, ML2 9DL (“the
Property”)**

Parties:

**Peninsula Ventures Limited, c/o Etimon Ltd, Trident House, 175 Renfrew Road,
Paisley, PA3 4EF (“the Applicant”)**

**Hardy Macphail Solicitors, 5th Floor, Atlantic Chambers, 45 Hope Street,
Glasgow G2 6AE (“the Applicant’s Representative”); and**

**Mr Jordan Currie, 13 Kildonan Court, Newmains, Wishaw, ML2 9DL (“the
Respondent”)**

Tribunal Member:

G McWilliams- Legal Member

Decision in absence of the Respondent

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

Background

1. This is an Application dated 27th September 2019 brought in terms of Rule 65 (Application for order for possession in relation to assured tenancies) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the 2017 Regulations”).
2. The Applicant provided the Tribunal, in the Application, with copies of the Short Assured Tenancy agreement, Forms AT5 and AT6, with relevant Execution of Service, Rent Statement and a Local Authority Notice under

Section 11 of the Homelessness etc (Scotland) Act 2003. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988 ("the Act"), and the procedures set out in the Act had been correctly followed and applied.

3. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 4th November 2019, and the Execution of Service was produced.

Case Management Discussion

4. A Case Management Discussion ("CMD") was held on 5th December 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant was represented by Mr M. Ritchie of Hardy Macphail Solicitors, Glasgow. The Respondent did not appear and was not represented. The Applicant's representative stated that the Respondent had not paid any rent since 8th May 2019. He stated that the outstanding rent owing at the time of lodging of the Application, of £2539.60, had increased. He submitted that more than 3 months rental payments were outstanding. He further submitted that the Respondent had last had rent paid through Housing Benefit in March 2019. The Respondent then made a voluntary payment of £400 to account of rent owing on 8th May 2019, being the last rental payment received. He said that the Applicant had not received any communications from the Respondent subsequent to the lodging of the Application. He asked the Tribunal to grant the order for possession in terms of Ground 8 in Part 1 of Schedule 5 to the Act.

Statement of Reasons

5. In terms of Section 18 of the Act the Tribunal shall not make an order for possession of the house let on the tenancy except on one or more of the grounds set out in Schedule 5 to the Act.
6. Ground 8 in Schedule 5 to the Act provides that an order for possession is mandatory if both at the date of the service of the Notice under section 19 of the Act relating to the proceedings for possession (being the date of service of the Form AT6) and at the date of the Hearing, at least three months' rent lawfully due from the tenant is in arrears.
7. Section 18 also provides that the Tribunal shall not make an order for possession unless they consider it reasonable to do so. Further it provides that the Tribunal shall have regard, in particular, to the extent to which any delay or failure to pay rent taken into account in determining that the Ground is established is or was a consequence of a delay or failure in the payment of relevant Housing Benefit or relevant Universal Credit.
8. The Tribunal considered all of the available evidence, and applied the relevant law. They placed considerable weight on the inaction of the Respondent who

had not lodged any written representations with the Tribunal nor attended or arranged to be represented at today's CMD to seek to contradict the terms of the Application. Having done so, the Tribunal determined that Ground 8 above was satisfied and accordingly granted an order for possession.

Decision

9. The Tribunal makes an order for possession of the Property as sought in this Application.

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.

G McWilliams

G McWilliams

5th December 2019

Legal Member

Date