



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 19 of the Housing (Scotland) Act 1988.**

**Chamber Ref: FTS/HPC/EV/19/1492**

**Re: Property at Room D Flat 3 Block 18, 16 - 18 Potterrow, Fresh Student Living, Edinburgh, EH8 9BL ("the Property")**

**Parties:**

**PBSA Letting LP, c/o Fresh Student Living Ltd, 3rd Floor, 7-9 Swallow Street, London, W1 4DE ("the Applicant")**

**Ms Rosslyn Carlyle, Room D Flat 3 Block 18, 16 - 18 Potterrow, Fresh Student Living, Edinburgh, EH8 9BL ("the Respondent")**

**Tribunal Members:**

**Fiona Watson (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order is granted against the Respondent(s) for possession of the Property under section 18 of the Housing (Scotland) Act 1988.**

- **Background**
  1. This was a Hearing on an application seeking an order for repossession of a property let under an assured tenancy, under section 19 of the Housing (Scotland) Act 1988 ("the 1988 Act"), and in particular grounds 11 and 12 under Schedule 5 to the 1988 Act. The Applicant sought repossession on those grounds on the basis that the tenant had accrued arrears of rent. This was denied by the Respondent.
  2. The Applicant was represented by Malcolm Rudd, DWF Solicitors. Present on behalf of the Applicant was Karen Bathie, Head of Operations for the Applicant. There was one witness called for by the Applicant, namely Susan Burgess, Accommodation Manager for the Applicant.

3. The Respondent was personally present and representing herself. Her mother, Moyra Carlyle attended as a Supporter in terms of section 11 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 as contained within the Schedule to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. Moyra Carlisle was also named as the Guarantor under the tenancy agreement between the parties. The Respondent led no evidence from any witnesses.
4. Both parties had lodged a number of documents to which they referred during the course of the Hearing. Prior to commencement of the Hearing, the Respondent advised that she had not had receipt of the documents lodged by the Applicant. Some of those documents had already been lodged previously by the Applicant and accordingly were not new to the Respondent. The Hearing was adjourned to allow a copy to be made for the Respondent and to give her time to consider same. Upon re-commencement of the Hearing, the Respondent confirmed that she had had sufficient time to read through the documents and was happy to proceed. It should be noted that the Tribunal Clerk confirmed that the system showed that the Applicant's productions had indeed been emailed to the Respondent prior to the Hearing, on 23 October 2019.
5. It was agreed between the parties that the payments made by the Respondent and which showed on the bank statements lodged by her, had been received by the Applicant. The issue in dispute was the level of rent due to be paid by the Respondent to the Applicant and whether or not the Respondent was in arrears of rent.

### **The Hearing**

#### **The Applicant's evidence**

6. Susan Burgess, Accommodation Manager employed by the Applicant gave evidence for the Applicant. She had been employed by the Applicant for approximately two and half years, and prior to that nine years with the University of Edinburgh. Her job role involved general management of accommodation building's, staff management, managing student tenancies and facilities management.
7. Ms Burgess referred to a tenancy agreement ("Appendix 1" of the Applicant's productions) which was created by the computer system. A tenant would apply for accommodation by logging into a portal and completing an online booking. A tenancy agreement is then automatically generated by the system, which the prospective tenant then accepts via the portal. The Respondent had logged into the portal and accepted this tenancy agreement on 4 January 2016. Page 3 (which appeared to be a Form AT5) showed a date of 4 January 2016 above the name "Jane Crouch" who was stated as being Director of Operations. This is the date when the tenancy has been accepted by the tenant and is automatically inserted into the document when generated. Page 5 of Appendix

1 showed details of the Tenant, Landlord, Guarantor, Property, Tenancy Period and Rent.

8. The Tenancy Period was defined as follows:

*"beginning on 10-Jan-2016  
Ending on 28-May-2016 (19 weeks)."*

The Rent was stated as:

*"£3300 (for 19 weeks) payable in advance in instalments:*

<b>Charge Name</b>	<b>Amount</b>	<b>Due Date</b>
<i>First Rent Instalment</i>	<i>£1, 650</i>	<i>31 December 2015</i>
<i>Deposit</i>	<i>£ 150.00</i>	<i>02 Nov 2015</i>
<i>Second Rent Instalment</i>	<i>£1, 650.00</i>	<i>10 March 2016</i>

9. Ms Burgess explained that this was a semester let and which type of tenancy they no longer offer to students. The period of 10 January 2016 to 28 May 2016 reflected the dates corresponding to the specific semester of the academic year. The Applicant always asked for payment of the first instalment in advance of the let.

10. Ms Burgess was referred to another tenancy agreement ("Document A" of the Respondent's productions). In said document the Tenant, Landlord, Guarantor and Property details were the same, however the Tenancy Period was defined as follows:

*"beginning on 10-Jan-2016  
Ending on 08-Jul-2016 (25 weeks)"*

The Rent also differed and states:

*"4290.00 (for 25 weeks) payable in advance in instalments:*

<b>Charge Name</b>	<b>Amount</b>	<b>Due Date</b>
<i>Deposit</i>	<i>£150.00</i>	<i>01 January 2014</i>
<i>First Rent Instalment</i>	<i>£1,650.00</i>	<i>31 December 2015</i>
<i>Second Rent Instalment</i>	<i>£1, 650.00</i>	<i>10 March 2016</i>

11. Ms Burgess was not aware of where the "Document A" tenancy agreement had come from. She acknowledged that it looked like one of their tenancies, however this was not the tenancy they had on their system as being entered

into with the Respondent and she did not know how this tenancy would have been created. She was not aware of a 25 week lease ever having been issued to a tenant. There would be no reason to issue one. It didn't fit in with semester dates. The date of creation, which was stated as being 7 July 2016, didn't accord with the date the Respondent logged into the portal.

12. Ms Burgess was referred to "Appendix 2" of the Applicant's productions. This was a screenshot of the online portal. This showed that the tenant had accepted the tenancy on 4 January 2016. This date was the date which was inserted into the tenancy agreement at Appendix 1.
13. Ms Burgess referred to Appendix 3, page 1, of the Applicant's productions. This was a rent statement which showed the dates rent instalments fell due, the rent payments made, the date received by the Applicant, the method of payment and the running balance of arrears. Ms Burgess said that new tenancies had been offered to the Respondent which had been refused. The Respondent failed to make payment of the rent due under the existing tenancy, and instead seemed to calculate herself how much rent she considered due to be paid based on what others in the building were paying. Others in the building had signed up to 51 week tenancies under which they paid a lower rent. The Respondent had refused to sign up to a similar tenancy when offered to her. Page 1 of Appendix 3 showed an arrears total due of £479.04 as at 9 October 2018. This table and arrears figure was calculated on the basis of the Respondent being due to pay £173 per week (and which weekly figure was calculated on the basis of the original tenancy agreement rental figure of £3300 being divided by 19, being the number of weeks in the period.)
14. It was acknowledged that the rental period of 10 January 2016 to 28 May 2016 was in fact over 19 weeks and closer to 20 weeks, but their system had not picked up the extra days to round up to 20 weeks. Based on a 20 week division of the £3300 rental amount, this would equate to £165 per week. Ms Burgess confirmed that based on that weekly sum, the Respondent's arrears would equate to around £2525.
15. Page 3 of Appendix 3 showed a different rent table. This table showed an arrear of £3,272.28 as at 15 December 2018. This table was prepared on the basis of the rent instalments falling due as per the original terms of the tenancy agreement rolling on for the same period each time and being paid in two instalments of £1650 in each period. On that basis, the Respondent was still in arrears but of a higher amount.
16. Ms Burgess referred to the Respondent being frequently late in paying her rent. Most payments were made by cheque. The time allowing for those cheques to clear meant that the payments hit the rent account later than due. The Respondent's payments could be quite erratic. There was no pattern as to how much would be paid and when.
17. A Notice to Quit was issued to the Respondent on 19 July 2018 by way of Recorded Delivery post. A Form AT6 in terms of section 19 of the 1988 Act

was also served on the basis of Grounds 11 and 12 under Schedule 5 to the 1988 Act. The Notice to Quit gave notice to the tenant that repossession was required by no later than 15 December 2018. Upon taking legal advice, the Applicant refused to accept any rent payments offered by the Respondent after 15 December 2018.

18. During questioning by the Respondent, Ms Burgess advised that the entry in the rent statement showing a £150 credit on 31 August 2016 with the title "voucher rebooker offer" was a typo. This should have been described as a refer-a-friend credit. The Respondent questioned why a credit of £150 for a "voucher rebooker offer" wasn't applied. Ms Burgess said that this would only have been applied had the Respondent rebooked by signing up to a new tenancy agreement, which she failed to do. It was stated by the respondent that this was indicative of the persistent level of inaccuracy in the Applicant's paperwork
19. Ms Burgess was asked by the Respondent why her deposit of £150 was not included as a credit in the table. Ms Burgess explained that this was held by My Deposits Scotland, being the tenancy deposit scheme provider, and therefore was a separate matter to the rent.
20. Ms Burgess was referred to the Applicant's Appendix 5, comprising a written response by Ms Burgess to the Respondent's answers to the claim. In it, Ms Burgess states that "*we do legally end tenancies, NTQs, section 33 notices are issued to all tenants in time to end the SATs each academic year.*" Ms Burgess accepted that the Respondent's lease had not been ended at the end of the initial term. Instead, a Notice to Quit and Form AT6 were served in July 2018.
21. The Respondent referred to the statement in the same production which states "*informal meetings were requested in order to try and rectify the situation in an amicable manner, rather than resort to lengthy legal proceedings*". The Respondent submitted that the Applicant had not been amicable in their dealings with her. Ms Burgess said that she considered that she had tried to engage with the Respondent to resolve matters, as had her colleagues, but they had not managed to reach any agreement with the Respondent. They didn't want to have to raise proceedings but had no option due to the failure to make payment of rent as fell due.
22. The Respondent asked Ms Burgess to confirm that the Applicant's tenant portal does not work. Ms Burgess advised that their portal does work, however you must be signed up to a new tenancy to be able to access it. She advised that rent receipts had been provided to the Respondent when requested.
23. Ms Burgess accepted that previous rent statements sent to the Respondent have contained some typographical errors. However the rent statements lodged in process and before the Hearing were accurate.
24. The Respondent submitted to Ms Burgess that the instalment structure contained within the tenancy agreement made the arrears look worse than they actually are. Ms Burgess disagreed with this statement. She advised that the

payment structure was accepted by the Respondent in signing up to the tenancy and therefore it is not unreasonable to expect rent to be paid in that manner. Ms Burgess accepted that at the end of 2017, the Respondent was not in arrears.

### **The Respondent's Evidence**

25. The Respondent submitted that she did not agree to the lease submitted by the Applicants as Appendix 1, and that the lease she entered into was the document submitted by her as Document A. This was printed off and given to her by Alasdair Mackay, Ms Burgess' predecessor. Nothing was done by either party to bring that lease to an end at the end of the initial term. Thereafter, she requested a lease for the period over the summer but this was refused. The Applicant had acted in an intimidating manner towards her in demanding further rent payments.
26. When asked by the Tribunal if she had queried the discrepancies in the figures in the lease she was founding upon, she advised that she had but that Mr Mackay hadn't dealt with the issue.
27. The Respondent submitted that the Applicant kept offering further tenancies at different rental amounts and differing durations. She refused all of them.
28. When asked by the Tribunal if she considered that the original lease she was founding upon had rolled on after the end date, she submitted that she did not agree that it had rolled on. She had no lease after the end date.
29. She paid £990 at the end of the initial term but did not know what period this covered. She asked for clarification from the Applicant as to why they wanted payment of £990 and the terms of same but this was not provided to her. She paid it to ensure she could remain in the property. When asked by the Tribunal why she then continued to pay £330 per month thereafter, she submitted that no-one had told her what to pay and when, so she decided herself to pay £330 per month.
30. The Respondent submitted that at September 2016, she offered to pay the same rent as everyone else in her building was paying. She had a verbal agreement with Mr Mackay in this regard. Nothing was entered into in writing.
31. Upon cross-examination by Mr Rudd, the Respondent was asked how the lease she had referred to as Document D had been provided. Document D was the lease referred to as Appendix 1 by the Applicant and the lease upon which their application is based. The Respondent advised that she required a copy lease in October 2017 for the purposes of applying for Housing Benefit. She asked Susan Burgess to print her a copy of her lease and this was what was given to her. She hadn't seen it before then. The Respondent accepted in her evidence that the rental figures in the lease she was relying upon, did not add up. Nor did the tenancy dated equate to a semester. She agreed that she logged in to the portal and signed up to a lease on 4 January 2016. She confirmed that the

date on the lease she wished to rely on showed a creation date of 7 July 2016. This could not be explained. The Respondent's position was that this was yet another mistake on the part of the Applicant. The lease founded upon by the Applicant was incorrect and she referred to this repeatedly throughout her evidence as a "falsified lease."

32. When asked if she accepted that at the end of the initial lease period it would have rolled on, the Respondent's reply was "how should I know?"
33. When asked why she had refused to enter into a 51 week tenancy offered by the Applicants, the Respondent answered that she did not appreciate Mr Mackay attending at her flat and trying to pressure her into entering into a new tenancy. She agreed that the rent offered under the new tenancy was lower than that she had signed up to, however she did not want to accept a short assured tenancy on this basis. She had taken advice and was advised that what she currently had an assured tenancy, which gave her more security as a tenant.

### **Submissions**

34. Mr Rudd moved for the application to be granted as sought, and for a repossession order to be granted in favour of the Applicant, against the Respondent.
35. The correct tenancy in place between the parties was that referred to as Appendix 1, for the term 10 January 2016 to 28 May 2016. This lease had continued on a rolling basis thereafter on the same terms and conditions. This lease was agreed to by the Respondent by logging onto the portal on 4 January 2016. Whether or not rent was calculated on a weekly rate based on a 19 week or 20 week term, the Respondent was in arrears of rent. She had failed to make payment of rent in the amount due, and in the instalment method agreed to, under the said lease. In either scenario, arrears of rent were due at the point the Notice to Quit was served, at the point it expired on 15 December 2018 and at the date of the Hearing.
36. There were inconsistencies in the Respondent's evidence and in the documentation and written answers lodged by her. Ms Burgess' evidence should be preferred over that of the Respondent in this regard.
37. The Respondent had simply decided herself what rent she wished to pay, and refused to sign up to new tenancies when asked on lower rent terms. It was unreasonable for the Respondent to consider that she could simply pay the rent everyone else in the building was paying, when she had refused to sign up to a tenancy agreement on that basis. She remained bound by the lease entered into originally (Appendix 1). The Respondent had been persistently late in paying rent, and had failed to pay rent lawfully due. An order for repossession should be granted on that basis, in terms of Grounds 11 and 12 of the 1988 Act and it was reasonable to do so.

## **Respondent's Submissions**

38. The Respondent submitted that the tenancy agreement being founded upon by the Applicant was a mess and should not be used as a basis for anything. The Applicant could not prove that the Respondent owed any money as their documentation was full of errors. Due to their failure to provide correct documentation, she had no option but to pay the rent she had to calculate herself. By their acceptance of the cheques paid by her during the term of the tenancy, they had accepted that the sums she was paying were correct. She acknowledged that there were a couple of payments which were made late but in general, her rent was paid in full and on time. She was surprised when the Applicant refused to accept her rent payments after expiry of the Notice to Quit. She has been placing the rent in a holding account since then. She did her best to pay a fair rent, based on what everyone else in the building was paying. It was not lawful for the Applicant to found on a lease which did not stipulate rent being paid on a weekly or monthly basis. She would be happy to enter into a new lease with the Applicant, but any offer made by them previously was not made expressly on the basis that they would calculate the advance rent paid by her and refund any overpayment. She would be happy to pay £143.19 per week going forward which was the same as everyone else in the building.
39. She submitted that the Applicant should have approached her Guarantor in the first instance as regards any issues with the rent and should have pursued the Guarantor formally, and not her as Tenant.
40. The Applicants had refunded her deposit each September and then re-lodged in the tenancy deposit scheme thereafter. This meant that they acknowledged that the Respondent had an annual tenancy with them. The Applicant had advised the deposit scheme that the start date of the tenancy was in September.

## **Findings in Fact**

- i. The parties entered into a tenancy agreement ("the Agreement") which commenced 4 January 2016 and ended 28 May 2016;
- ii. Neither party took steps to end the Agreement at the end date of the original contractual period;
- iii. The Agreement continued to roll on thereafter for the same period each time until service of the Notice to Quit by the Applicant;
- iv. The parties were bound by the same contractual terms during each rolling period to include the payment of rent by way of two instalments of £1650;
- v. The Respondent had failed to make payment of rent as lawfully due in terms of the Rent clause in said lease;
- vi. The Respondent had persistently delayed in paying rent as it fell due;
- vii. The Respondent was in arrears of rent at the point the Notice to Quit and Form AT6 were served;
- viii. The Respondent was in arrears of rent at the date on which the Notice to Quit expired, being 15 December 2018;



## Reasons for Decision

41. The Application is raised in terms of section 18 of the 1988 Act, and upon Grounds 11 and 12 under Schedule 5 to the 1988 Act. Section 18 is as follows:

*“18 Orders for possession.*

*(1) The First-tier Tribunal shall not make an order for possession of a house let on an assured tenancy except on one or more of the grounds set out in Schedule 5 to this Act.*

*(2) The following provisions of this section have effect, subject to section 19 below, in relation to proceedings for the recovery of possession of a house let on an assured tenancy.*

*(3) If the First-tier Tribunal is satisfied that any of the grounds in Part I of Schedule 5 to this Act is established then, subject to subsections (3A) and (6) below, the Tribunal shall make an order for possession.*

*(3A) If the First-tier Tribunal is satisfied—*

*(a) that Ground 8 in Part I of Schedule 5 to this Act is established; and*

*(b) that rent is in arrears as mentioned in that Ground as a consequence of a delay or failure in the payment of relevant housing benefit or relevant universal credit,*

*the Tribunal shall not make an order for possession unless the Tribunal considers it reasonable to do so.*

*(4) If the First-tier Tribunal is satisfied that any of the grounds in Part II of Schedule 5 to this Act is established, the Tribunal shall not make an order for possession unless the Tribunal considers it reasonable to do so.*

*(4A) In considering for the purposes of subsection (4) above whether it is reasonable to make an order for possession on Ground 11 or 12 in Part II of Schedule 5 to this Act, the First-tier Tribunal shall have regard, in particular, to the extent to which any delay or failure to pay rent taken into account by the Tribunal 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.*

*(5) Part III of Schedule 5 to this Act shall have effect for supplementing Ground 9 in that Schedule and Part IV of that Schedule shall have effect in relation to notices given as mentioned in Grounds 1 to 5 of that Schedule.*

*(6) The First-tier Tribunal shall not make an order for possession of a house which is for the time being let on an assured tenancy, not being a statutory assured tenancy, unless—*

*(a) the ground for possession is Ground 2 or Ground 8 in Part I of Schedule 5 to this Act or any of the grounds in Part II of that Schedule, other than Ground 9, Ground 10, Ground 15 or Ground 17; and*

*(b) the terms of the tenancy make provision for it to be brought to an end on the ground in question.*

*(6A) Nothing in subsection (6) above affects the First-tier Tribunal's power to make an order for possession of a house which is for the time being let on an assured tenancy, not being a statutory assured tenancy, where the ground for possession is Ground 15 in Part II of Schedule 5 to this Act.*

*(7) Subject to the preceding provisions of this section, the First-tier Tribunal may make an order for possession of a house on grounds relating to a contractual tenancy which has been terminated; and where an order is made in such circumstances, any statutory assured tenancy which has arisen on that termination shall, without any notice, end on the day on which the order takes effect.*

*(8) In subsections (3A) and (4A) above—*

*(a) "relevant housing benefit" means—*

*(i) any rent allowance or rent rebate to which the tenant was entitled in respect of the rent under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971); or*

*(ii) any payment on account of any such entitlement awarded under Regulation 91 of those Regulations;*

*(aa) "relevant universal credit" means universal credit to which the tenant was entitled which includes an amount under section 11 of the Welfare Reform Act 2012 in respect of the rent;*

*(b) references to delay or failure in the payment of relevant housing benefit or relevant universal credit do not include such delay or failure so far as referable to any act or omission of the tenant.*

42. Grounds 11 and 12 state as follows:

### **Ground 11**

*Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due.*

### **Ground 12**

*Some rent lawfully due from the tenant—*

*(a) is unpaid on the date on which the proceedings for possession are begun; and*

*(b) except where subsection (1)(b) of section 19 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.*

43. The Tribunal finds that the Applicant has established Ground 11. The Respondent accepted that she logged into the student portal on 4 January 2016. The evidence of Ms Burgess confirmed that the date of logging into the portal and accepting the tenancy agreement created the insertion of the same date into the paperwork. The agreement lodged as Appendix 1 shows a date of 4 January 2016 as being the date the documentation was created. This coincided with the screenshot showing when the Respondent logged in. The first two rent instalment payments made by the Respondent were both made as per dates on Agreement under Appendix 1. The Tribunal is satisfied that on that basis, the terms of the agreement lodged as Appendix 1 were accepted by the Respondent and acted upon. The Tribunal found Ms Burgess to be a credible witness and her evidence consistent. The Tribunal found the Respondent's evidence to be inconsistent, and her manner towards both the Tribunal and other parties to be petulant at times.
44. The Respondent sought to rely on an alternative lease (Document A) but the payments made by her initially did not coincide with the dates specified in the rent clause within that lease. The payment instead coincided with the terms of the lease founded upon by the Applicant (Appendix 1). Furthermore, the payments made by her during the course of her occupation of the property did not corresponded with the payment amounts and frequency of payments contained in the alternative lease either. Ms Burgess confirmed that even if rent was calculated on a weekly basis in terms of the alternative lease, by way of the rent due of £3,300 being divided by 25 weeks, this would equate to rent being due at the rate of £165 per week. This was not a sum the Respondent was paying either. This would still have led to the rent being an arrears in any event. The Respondent also referred to the lease having an initial 19 week duration in written documentation submitted to the Tribunal, as well as in her oral evidence, thereby agreeing with the period of the lease founded upon by the Applicant as Appendix A. The Tribunal was satisfied that the lease entered into between the parties was the lease as lodged as Appendix 1. On that basis,

the rent statement contained at page 3 to Appendix 3 showed an arrear due at the date of expiry of the Notice to Quit of £3,272.28.

45. The Respondent's contention was that the lease simply ended at the end of the initial contractual term, and thereafter there was no lease in existence at all between the parties after the initial end date was reached. The Tribunal does not agree with that position as put forward by the Respondent. Where a contractual tenancy is not brought to an end by either party on the end date, it shall simply roll over for the same duration by way of tacit relocation, until brought to an end by either party serving a Notice to Quit on the other. The purpose and effect of service of a Notice to Quit is to prevent tacit relocation from operating. At the end of the contractual period of let, the Notice to Quit ends the contractual tenancy and thereafter where there is continued occupation by the tenant, a statutory tenancy exists. The Tribunal was unclear as to the legal basis upon which the Applicant considered that they could not accept any payment from the Respondent after the expiry of the Notice to Quit. No submissions were made in this regard nor any authorities referred to. It would appear to the Tribunal that the Applicant was entitled to insist on payment from the Respondent for their continued occupation of the property. The Applicant chose not to do so. In taking this position, the Tribunal is not satisfied that it is clear as to what the true level of arrears were on the date proceedings were begun. Arguably the Landlord in their refusal to accept rent have ensured a continued arrear. It was unclear what had been offered and in what sums by the Respondent, and if accepted how that would have affected the arrear balance. The Respondent said in her evidence that she was prepared to continue to make payment at a rate of £143.19 per week and therefore assumptions could be made that those were the payments being offered and refused. On that basis, there would still be an arrear of rent at the date proceedings were begun. However, the tribunal does not consider it appropriate to make such assumptions and on that basis, the Tribunal cannot be satisfied that ground 12 has been established.

46. However, the Tribunal is satisfied that the Respondent has persistently delayed in paying rent. The Respondent failed to pay rent as per the instalment frequency and rate as provided for in the Agreement entered into between the parties. She attempted to found upon an alternative tenancy agreement yet failed to establish that she had paid rent in terms therein either. She has accrued arrears of rent as a result, and accordingly Ground 11 is established. In terms of section 18 (4) of the 1988 Act, the Tribunal shall not make an order for possession on the basis of Ground 11 unless it considers it reasonable to do so. The Tribunal is satisfied that it is reasonable to grant the Order. The Respondent has been unreasonable in her dealings with the Applicant. The Applicant has offered further tenancy agreements to the Respondent, at a lower rate of rent than the agreement in operation, with a view to allowing her to continue in occupation of the property, which she has refused. The Respondent has refused to enter into a new tenancy, yet has also refused to adhere to the terms of the original tenancy entered into. It is not reasonable for the Respondent to consider that she can make her own decision as to an amount of rent to pay, based on someone else in the building's tenancy agreement.

## Decision

47. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for possession of the Property under section 18 of the Housing (Scotland) Act 1988.

## 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.

**F Watson**

\_\_\_\_\_  
Legal Member/Chair

\_\_\_\_\_  
Date

15/11/19.