

**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/19/1232**

**Re: Property at 55 Tontine Park, Renton, Alexandria, G82 4LP (“the Property”)**

**Parties:**

**Mr Abdul Ghani, 21 Inchcruin, Balloch, Alexandria, G83 8GS (“the Applicant”)**

**Mr Paul Barry Ferguson, Mr Paul John McFetridge, 55 Tontine Park, Renton, Alexandria, G82 4LP (“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 the application for the order for possession should be granted**

**Background**

By application dated 17<sup>th</sup> April 2019, the applicant 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 25<sup>th</sup> April 2019 the application was accepted by the Tribunal and referred for determination by the Tribunal.

A Case Management Discussion (“CMD”) was set to take place on 14<sup>th</sup> May 2019 and appropriate intimation of that hearing was given to both the Applicant and Respondents. The CMD did not proceed on 14<sup>th</sup> May 2019. A new CMD was fixed for 4<sup>th</sup> July 2019. Notice of the CMD on 4<sup>th</sup> July 2019 was intimated to all parties.

## **The Case Management Discussion**

The Case Management Discussion (CMD) took place on 4<sup>th</sup> July 2019. The Applicant was represented by Mr Fraser Cameron, solicitor. The Respondents did not attend.

The Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.

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 Respondents.

The Applicant's representative confirmed that he wished the order sought to be granted.

## **Findings in Fact**

The Applicant and the Respondents are respectively the Landlord and the Tenants entered into a tenancy of the property on 12<sup>th</sup> January 2017.

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

The Respondents were obliged to pay rent of £450 per month

The Respondents failed to make full payment of rent due and as at 12<sup>th</sup> March 2019, the Respondents had accrued arrears of rent in the sum of £2677.50.

On 27<sup>th</sup> March 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 ground for eviction narrated in the Form AT6 was 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 12<sup>th</sup> March 2019, the Respondents were in arrears of at least three months' rent. Rent arrears at that date stood at £2677.00.

As at the date of the hearing, the Respondent continued to be in arrears of at least three months' rent. The Applicant's representative confirmed to the Tribunal that the Respondents

had not reduced the balance of rent arrears by the date of the Tribunal hearing and accordingly there continued to be at least three months' rent due at the date of the Tribunal.

The ground for eviction was accordingly established.

### **Reason for Decision**

The order for possession was sought by the Applicant based on a ground specified in the Act and properly narrated in the notice served upon the Respondents. 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 Respondents.

The ground relied upon by 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 must grant an order for repossession.

### **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

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Date 4<sup>th</sup> July 2019