



**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 (the Act)**

Chamber Ref: FTS/HPC/EV/19/2711

Re: Property at 13 Arnothill, Falkirk, FK1 5RZ (“the Property”)

Parties:

**Matthew Henderson, Messrs Johnston Carmichael LLP, (trustee of the
sequestrated estate of John Watson) 7 – 11 Melville Street, Edinburgh EH3
7PE, (“the Applicant”)**

**Mr Gordon Gray (also known as Kenneth or Kenny Jones), 13 Arnothill,
Falkirk, FK1 5RZ (“the Respondent”)**

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an Order for Possession be granted in respect of
the property at 13 Arnothill, Falkirk, FK1 5RZ.**

The Hearing

**The Applicant was represented by Mr Di Paola of Messrs Aberdein Considine,
solicitors. The Respondent was absent. He was served with the papers and the
hearing was intimated to him on 25 October 2019. No formal response was
received and no written submissions were lodged by him to oppose the
application. He wrote a letter to the Tribunal (undated but received on 12
November 2019) in which he asked for the hearing to be postponed on the
grounds of ill health. Given he had not sought to raise any defence the
postponement request was refused. A request was made for him to produce
relevant documents in respect of his claimed ill health. Nothing was
forthcoming.**

Mr Di Paola made submissions on behalf of the Applicants.

Findings and Reasons

The Respondent entered into an assured tenancy agreement with John Watson the heritable proprietor of the property at 13 Arnothill, Falkirk, FK1 5RZ. The tenancy commenced on 8 June 2007. Monthly rent was agreed at £1,500 per month.

The Applicant was appointed as trustee of the sequestrated estate of the former landlord John Watson by way of Decree granted at Falkirk Sheriff Court on 10 February 2016. He has title to recover rent due and to raise these proceedings.

Despite requests to make payment of rent under the assured tenancy to the Applicant the Respondent has refused. He made an offer to purchase the property in cash in 2016. Those negotiations failed. The Respondent himself was declared bankrupt in that same year. The Respondent is known to use aliases.

A Notice to Quit was served upon the Respondent on 16 April 2019. An AT6 Notice of Proceedings for Possession under s19 was served setting out the grounds upon which the Applicant intended to rely – Ground 8 of schedule 5 of the Act.

The Tribunal accepted the credible and unchallenged evidence regarding the substantial arrears of rent which fulfils the requirements of Ground 8 – that both at the date of service of the Notice under s19 and at the date of the hearing that at least 3 months rent was lawfully due from the Respondent.

The Applicant is entitled in his capacity to recover possession of the property.

The date of enforcement of the order which requires to post-date the time period for any appeal is also further extended to 3 January 2020 to take account of the festive period and any health issues which the Respondent may be suffering from.

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.

R Mill

Legal Member/Chair

27 November 2019

Date