



**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/18/3511**

**Re: Property at 26 Balliemore, Kilmichael Glassary, Lochgilphead, PA31 8QD ("the Property")**

**Parties:**

**Mr Steven Walsh, C/O Cochran Dickie, 21 Moss Street, Paisley, PA1 1BX ("the Applicant")**

**Mr Colin MacDonald, 26 Balliemore, Kilmichael Glassary, Lochgilphead, PA31 8QD ("the Respondent")**

**Tribunal Members:**

**David Preston (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 eviction be granted in favour of the applicant.**

**Background**

1. Following the issue of the Note of Discussion dated 7 March 2019 to which reference is made, the applicant's agents lodged a Statement of Rent showing the position as at 7 March 2019 which disclosed that although the respondent had made payments of rent in January, February and March 2019, the rent for the period from 1 May 2018 to 1 December 2018 remained outstanding at that time. The statement was clear in its terms.
2. On 4 April 2019 the respondent was served with papers and documents providing due Notice of the Case Management Discussion ("CMD") to be held on 14 May 2019 at 10.00 in Lochgilphead CE Centre, Manse Brae, Lochgilphead. The tribunal noted the Sheriff Officer's Certificate of Citation dated 5 April 2019.

### **Case Management Discussion**

3. The applicant was represented by Mrs Jane MacLeod, Solicitor who appeared locally on behalf of Cochrane Dickie, Solicitors. The respondent was neither present nor represented. The tribunal was satisfied that the respondent had received due notice of the CMD and that he had therefore voluntarily waived his right to attend or be represented and was accordingly content to proceed with the CMD.
4. Mrs MacLeod advised that her instructions were to seek an order for eviction although it was acknowledged that rental payments had been made but no effort had been made to clear any part of the significant arrears. She submitted an updated Rent Statement covering the period up to 7 May 2019 which showed that the arrears accrued between January and December 2018 (8 months) remained outstanding.

### **Reasons for Decision**

1. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, to determine the application at the CMD.
2. As at the date of the application (19 December 2018), arrears of rent in excess of three months had accrued. No payments had been made since that date towards the arrears of rent.
3. The tribunal was satisfied that in terms of Ground 12 of Schedule 5 of the Housing (Scotland) Act 1988, some rent lawfully due from the tenant was unpaid on the date on which the proceedings for possession were begun and was in arrears at the date of service of the notice of the proceedings was given.

### **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.**

David Preston

14 May 2019

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**Legal Member/Chair**

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**Date**