



**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/19/1969**

**Re: Property at 17/38 John's Place, Edinburgh, EH6 7EN ("the Property")**

**Parties:**

**Mr Charles McGlew, represented by Kathleen McGlew, 2/2 Circus Gardens,  
Edinburgh, EH3 6TN ("the Applicant")**

**Mr Fraser Andrews, 17/38 John's Place, Edinburgh, EH6 7EN ("the  
Respondent")**

**Tribunal Members:**

**George Clark (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the  
Tribunal") determined that the application should be granted without a Hearing  
and made an Order for Possession of the Property.**

**Background**

By application, received by the Tribunal on 27 June 2019, the Applicant sought an Order for Possession under Section 18 of the Housing (Scotland) Act 1988 ("the 1988 Act"). The Grounds relied on were Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act.

The application was accompanied by copies of a Rental Agreement for a period of six months commencing on 12 June 2014, a Form AT6 Notice dated 1 May 2019 and a Notice to Quit, dated 2 May 2019, with evidence of service of both Notices by sheriff officer on 6 May 2019. The Form AT6 Notice advised the Respondent that proceedings would not be raised before 12 June 2019 and the Notice to Quit required the Respondent to vacate the Property by that date. The Applicant also provided the Tribunal with a Rent Statement showing arrears as at 12 June 2019 of £4,000.

On 31 October 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 21 November 2019. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at Riverside House, Gorgie Road, Edinburgh on the morning of 5 December 2019. The Applicant was represented by his sister, Miss Katherine McGlew. The Respondent was not present or represented. Miss McGlew advised the Tribunal that no rent had been paid since the date of the application and that the arrears now stood at £4,000. She asked the Tribunal to make an Order for Possession without a Hearing.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would determine the application without a Hearing.

Section 18 of the 1988 Act states that the 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 the Act and that, if the Tribunal is satisfied that any of the Grounds in Part I of Schedule 5 to the Act is established, then the Tribunal shall make an Order for Possession. Section 19 of the 1988 Act provides that the Tribunal shall not entertain proceedings for possession of a house let on an assured tenancy unless the landlord has served on the tenant a notice in accordance with Section 19 (a Form AT6 Notice).

Ground 8 of Part I of Schedule 5 to the 1988 Act applies where, both at the date of service of the Notice required under Section 19 of the Act and at the date of the Hearing, at least three months' rent lawfully due from the tenant is in arrears.

The Tribunal was satisfied that the tenancy was an assured tenancy, that the Notice required by Section 19 of the 1988 Act had been given and that the rent was in arrears by at least three months both on the date of service of the Form AT6 Notice and the date of the Case Management Discussion. Accordingly, the requirements of Ground 8 of Schedule 5 to the 1988 Act had been met and the Tribunal was bound to make an Order for Possession.

Having determined the application under Ground 8, it was not necessary for the Tribunal to consider further the application under Grounds 11 and 12.

### **Decision**

The Tribunal determined that the application should be granted without a Hearing and made an Order for Possession of the Property.

### **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.

George Clark

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**Legal Member/Chair**

5 December 2019

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**Date**