

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18(1) of the Housing (Scotland) Act 1988 (hereinafter referred to as “the 1988 Act”) for Recovery of Possession of a short assured tenancy**

**Chamber Ref: FTS/HPC/EV/18/0319**

**Re: Property: 44 Sanderling, Lesmahagow, Lanark, ML11 0GX (“the property”)**

**Parties:**

**Robert Winch, Sheila Winch, C/O 31A North Bridge Street, Bathgate, West Lothian, EH22 5RD (“the Applicants”)**

**Alan Faddes, 44 Sanderling, Lesmahagow, Lanark, ML11 0GX (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (Legal Member)  
Gordon Laurie (Ordinary Member)**

**This Hearing was fixed in terms of Rule 24 and 65 of the Procedure Rules and concerned an Application for Recovery of Possession under Section 18(1) of the Housing (Scotland) Act 1988. The purpose of the hearing was explained in terms of Rule 25 of the Procedure Rules.**

**Attendance and Representation**

**The Applicants were represented by Euphemia Matheson, solicitor, Bannantyne Kirkwood France & Co.**

**The Respondent did not attend the Tribunal.**

**Preliminary Matters**

**The Respondent did not appear nor was he represented. No written representations had been lodged by the Respondent. The Tribunal was satisfied that in terms of Rule 29 of the Procedure Rules the Respondent had**

been given the relevant notice of the hearing in terms of Rule 24(1) of the Procedure Rules and proceeded with the Hearing accordingly.

Ms Matheson lodged an up to date rent statement showing the period from 25<sup>th</sup> January 2018 to May 2018. The Tribunal allowed same to be received. No rental payments had been received during that period. The rent due amounted to £2725.00.

Ms Matheson lodged an additional execution of service of the AT6 dated 16<sup>th</sup> January 2018 reflecting that service was of the relevant AT6 and not a Notice to Quit. The Tribunal noted that this was an error in typing from the Sheriff Officers only. The Tribunal allowed same to be received

### **Submissions**

Ms Matheson confirmed that the Applicants sought an Order for Possession based on Ground 8, section 18(1) of the 1988 Act only. In support of same she referred to the fact that more than 3 months rent arrears were due both at the date of service and at today's hearing, the rent arrears having continued to increase since the date of service. The Applicants had no knowledge that the Respondent had ever had any entitlement to housing benefit or universal credit nor any reason as to why rent arrears had occurred.

### **Decision**

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

### **Reasons for Decision**

1. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.
2. The Tribunal was satisfied that the tenancy was in terms of Section 32(1) of the 1988 Act, a short assured tenancy for not less than 6 months and in relation to which a prescribed notice namely a valid AT5 had been served before creation of the short assured tenancy.
3. In terms of Section 18 (3A) the Tribunal was satisfied that the Respondent was in arrears of rent lawfully due of £2725.00 as at 21<sup>st</sup> May 2018, comprising of more than 3 months rent and further that Ground 8 of the 1988 Act was established given the said arrears of more than 3 months rent were due both at the date of service and at the date of the hearing.
4. The relevant AT6 notice was valid and had been served by Sheriff Officer on 16<sup>th</sup> January 2018.

5. The Tribunal enquired as to the reasons for the non payment of rent and whether there was any benefit issues and this was not within the knowledge of the Applicants.
6. Accordingly in terms of Section 18 of the 1988 Act the Tribunal granted an Order against the Respondent 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.

K Kirk

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Legal Member/Chair

19/6/18  
\_\_\_\_\_  
Date