



**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 1988 Act”) and Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)**

**Chamber Ref: FTS/HPC/EV/18/1190**

**Re: Property at 5/7 Great Cannon Bank, Edinburgh, EH15 1TN  
 (“the Property”)**

**Parties:**

**Miss Melanie McSherry, 68 Adelphi Place, Edinburgh, EH15 1BE  
 (“the Applicant”)**

**Miss Cristiana Lilliana De Sousa Ribeiro, 5/7 Great Cannon Bank, Edinburgh,  
 EH15 1TN  
 (“the Respondent”)**

**Tribunal Members:**

**Susanne Tanner Q.C. (Legal Member)  
 David Fotheringham (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) was satisfied that Ground 8 in Part I of Schedule 5 to the 1988 Act was established by the Applicant, in that both at the date of service of the notice under Section 19 of the 1988 Act relating to the proceedings for possession and at the date of the hearing, at least three months’ rent lawfully due from the tenant is in arrears; that rent arrears were not a consequence of a delay or failure in payment of relevant housing benefit or universal credit; and made an order for possession in terms of Section 18(3) of the 1988 Act.**

- 1. The Applicant made an application to the tribunal on 15 May 2018 in terms of Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”) and Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”).**

2. The Applicant sought the Respondent's eviction from the Property under Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act.
3. The Applicant lodged:
  - 3.1. a copy of the short assured tenancy agreement;
  - 3.2. a copy of the AT6 notice dated 23 April 2018 together with proof of service on 24 April 2018 by Sheriff Officers;
  - 3.3. a rent statement for the period 4 June to 22 April 2018 which had been prepared by the Applicant; and
  - 3.4. a copy of the Section 11 Notice which was sent to the local authority.
4. The Short Assured Tenancy was signed by both parties on 14 June 2017. The tenancy commenced on 14 June 2018 and the termination date was 14 June 2018. The rent was £800 per calendar month payable monthly in advance. A deposit of £800 was due at or before the date of entry and was to be paid into the Safe Deposits Scotland tenancy deposit scheme.
5. Prior to the hearing the Applicant submitted an updated rent statement for the period to 14 June 2018. It showed that as at 14 June 2018 there were £4600 of rent arrears.
6. A hearing took place at George House, 126 George Street, Edinburgh on 10 August 2018. The Applicant was present. The Respondent did not appear.
7. The Applicant made reference to the Rent Statement and bank account statements which had been lodged. She said that the Deposit had been credited to her account by the Respondent on 15 May 2017. The first rent payment of £1067 was made by two payments, of £1000 and £67, respectively, on 9 and 15 June 2017.
8. At the hearing the Applicant produced additional bank statements from her account for the period 30 May to 31 July. The tribunal allowed the documents to be lodged late on the basis that there was a reasonable excuse in terms of Rule 22(2) of the 2017 Rules in that they were not available prior to the end of July. The up to date statements showed that no credit payments have been made into the account by the Respondent or on her behalf by Piotr Dlugosz in the period 30 May to 31 July 2018.
9. The Applicant advised that she served a valid Notice to Quit on the Respondent to quit approximately three months prior to the end of the Short Assured Tenancy on 14 June 2018 to bring the tenancy to an end as at that date. She advised the tribunal that she has lodged a separate application with the tribunal on the basis that the tenancy has come to an end.
10. On the basis of the evidence lead by the Applicant, with reference to supporting documents, the tribunal was satisfied that as at 14 June 2018 there were £4600 of rent arrears due by the Respondent and that no rent payments have been made in the period from 14 June 2018 by the Respondent or on her behalf.

11. The Applicant advised that the Respondent is not in receipt of any housing benefit or relevant universal credit. She and her partner, Mr Piotr Dlugosz, are both in employment. Earlier in the tenancy the Respondent showed the Applicant a letter which related to an application for housing benefit in which it was stated that the Respondent was not eligible. The Respondent has not produced any written representations relevant to Housing Benefit. The tribunal was satisfied that any rent arrears are not a consequence of a delay or failure in the payment of housing benefit or relevant universal credit.
12. The tribunal makes the following findings-in-fact:
- 12.1. There was a Short Assured Tenancy between the parties for the period 14 June 2017 to 14 June 2018.
  - 12.2. Rent was £800 per calendar month, payable in advance.
  - 12.3. The Section 19 notice (AT6) was served on 23 April 2018.
  - 12.4. As at the date of service of the Section 19 notice there were at least 3 months of rent arrears.
  - 12.5. As at 14 June 2018 there were £4600 of rent arrears.
  - 12.6. No payments have been made by the Respondent to the Applicant in the period from 14 June 2018 to date.
  - 12.7. As at the date of the hearing there are in excess of three months' rent arrears lawfully due from the Respondent to the Applicant.
  - 12.8. The rent arrears are not a consequence of a delay or failure in the payment of Housing Benefit or relevant universal credit.

### **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.**

Susanne Tanner

**10 August 2018**

**Susanne L M Tanner Q.C.**  
**Legal Member/Chair**