



**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/19/2712

Re: Property at 115 Carrick Road, Lochside, Dumfries, DG2 9PZ (“the Property”)

Parties:

**Novantia Ltd, Grierson House, The Crichton, Bankend Road, Dumfries, DG1 4ZS
 (“the Applicant”)**

**Ms Lynne Toner, 115 Carrick Road, Lochside, Dumfries, DG2 9PZ (“the
Respondent”)**

Tribunal Members:

Nairn Young (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

- **Background**

This is an application for an order for possession of the Property, which is let to the Respondent in terms of an assured tenancy. It called for a hearing at 2pm on 31 January 2020. The Applicant was represented by two of its employees, Ms Irene Callander and Ms Dorothy Grassom. The Respondent was present in person and was represented by Mr Kevin Weald.

- **Findings in Fact**

1. The hearing followed upon two case management discussions. The earlier of these took place on 19 November 2019 and was attended by the Applicant's representative and the Respondent. The parties agreed the following facts:

- a. Dumfries and Galloway Housing Partnership Ltd is the heritable proprietor of the Property in terms of Land Certificate DMF18836.
- b. The Respondent is tenant of the Property in terms of a short assured tenancy between the Applicant and the Respondent.
- c. The term of the tenancy is from 1 September 2017 to 1 March 2018 and month to month thereafter.
- d. The Respondent had been served with a form AT6 on 9 May 2019 advising her that the Applicant intended to raise proceedings for possession of the Property under ground 8, 11 and 12 of the Housing (Scotland) Act 1988 and proceedings would not be raised before 1 August 2019.
- e. The Respondent had arrears of £3450.76 at the time of service of the AT6.
- f. The Respondent had not vacated the Property after receiving service of the AT6 and still resides in the Property.
- g. The rent due in terms of the tenancy agreement is £509.16 per calendar month payable in advance. The rent had been increased to £521.38 with effect from 1 August 2019.

In addition, the following facts were established at the hearing:

- h. The Applicant rents the Property from Dumfries and Galloway Housing Partnership Ltd. in terms of a lease dated 5 January 2011 and deed of variation dated 11 January 2011.
- i. At the date of the hearing the Respondent had rent arrears of £5847.66.
- j. The arrears are not due to any delay or failure in payment of a relevant housing benefit or relevant universal credit.
- k. The Respondent's contractual tenancy was brought to an end on 1 August 2019 by notice to quit served on 14 May 2019.

- Preliminary Matters

2. In advance of the hearing, the Applicant had made an application to amend its name to 'Novantia Ltd.'. The application had been raised in the name of 'Dumfries and Galloway Housing Partnership Ltd.'. The Respondent's landlord is 'Novantia Ltd.' and that is the name given on the relevant notices served on her. The Respondent had no objection to this change.
3. While this application was presented by the Applicant as an amendment, the Tribunal was of the opinion that it should more properly be dealt with as an

application for a party to be substituted in terms of rule 32 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017. In terms of that rule, it ordered the substitution of Dumfries and Galloway Housing Partnership Ltd. with Novantia Ltd..

- Reasons for Decision
4. Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 ('the Act') is as follows:

"Both at the date of service of the notice under section 19 of this 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."

5. On the basis of the facts found, the Applicant has established that this ground applies. In terms of s.18(3) of the Act, the Tribunal must therefore grant an order for possession.

- Decision

Order for possession granted.

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.

Nairn Young

Legal Member/Chair

5 FEBRUARY 2020

Date