



**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/21/2378

**Re: Property at 62B Charles Crescent, Boghall, Bathgate, West Lothian, EH48
1JG (“the Property”)**

Parties:

RNB Associates Limited, 9 Ainslie Place, Edinburgh, EH3 6AT (“the Applicant”)

**Mr Laszlo Szecsi, Mr Szilveszter Szecsi, 62b Charles Crescent, Boghall,
Bathgate, West Lothian, EH48 1JG (“the Respondent”)**

Tribunal Members:

Karen Kirk (Legal Member) and Elizabeth Dickson (Ordinary Member)

**This Hearing was a Case Management Discussion fixed in terms of Rule 17 of
the Procedure Rules and concerned an Application for Recovery of Possession
of an assured tenancy under Section 18 of the Housing (Scotland) Act 1988. The
purpose of the Hearing being to explore how the parties dispute may be
efficiently resolved.**

Attendance and Representation

**The Applicant was represented by Miss Wooley, Bannatyne Kirkwood France &
Co, 16 Royal Exchange Square.**

The Respondents did not attend the Tribunal or provide written representations.

A language interpreter was also present.

Decision (In Absence)

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

Preliminary Matters

In regards the non appearance of the Respondents the Tribunal explained that the Sheriff Officers who served the Respondents had received a call late last week from the Respondent's requesting an interpreter for the Hearing. The Sheriff Officers called the Tribunal Administration to pass this information on. The Tribunal arranged a language interpreter for the Respondents. There was no appearance or contact by them and the Hearing did not commence to 10.10am to allow them to join.

The Applicant's representative set out that the last contact between parties was on 28th November 2021 when the property manager gained access for a gas safety inspection and one of the Respondents was present in the property. She said further the Respondents had not been responding to any letters or emails.

The Applicant's Representative then referred to the Application made to amend the arrears and sum sought in the payment action, which also called to £5925. This was allowed the application had been intimated to the Respondents and was made dated 16th December 2021.

Case Management Discussion

The Applicant's representative confirmed that the Applicant sought an Order for Possession under section 18(1) of the 1988 Act, based on Grounds 8, 11 and 12 of Schedule 5 of this Act. 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 AT6 and execution of service having been carried out timeously and contained within the Application. No payments had been made since September 2020. The current arrears were £5925, as amended.

The Applicant's representative set out that it was reasonable in her submission for the tribunal to grant an order for repossession. She said the Respondents were in arrears for a substantial sum, there had been limited communication from them and inconsistent payments since on or around 2018. The Applicant's representative set out that the Applicant had complied with the pre action requirements and referred to correspondence on 2nd December 2020 and 15th December 2020 where they Applicant had received no response. She then referred to multiple other efforts by letter and by email by the Applicant's agents Martin and Co, with no response.

The Applicant's representative said the Respondents as far as the Applicant is aware do not have dependents, there has been no communication in over a year, information from 2013 when the tenancy started was that they both worked in recycling centre. The Applicant is not aware of any change in circumstances.

Findings in Fact and Law.

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondents had received notification of the proceedings and had not challenged same by written representations or attendance. The Respondents had been served by Sheriff Officer and Certificate of Service had been lodged with the Tribunal. There had been recent contact with the Respondents on the basis an amendment application had been lodged and the Respondents called the Sheriff Officers to request a Tribunal the Hearing and this message was passed on.**
- 2. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.**
- 3. The Tribunal was satisfied that the tenancy was in terms of Section 12 of the 1988 Act, parties entered into an assured tenancy in September 2013.**
- 4. The Applicant was relying on Grounds 8, 11 and 12 under Schedule 5 of the 1988 Act to make the Application.**
- 5. In terms of Ground 8 of Part 1 of Schedule 5 the Tribunal was satisfied that the respondents were in arrears of rent lawfully due of as at the date of the relevant and valid AT6 notice on 23rd March 2021 and at the date of the hearing and that these rent arrears comprised of more than 3 months' rent.**
- 6. The relevant AT6 notice was valid and had been served by sheriff Officer and received by the Respondents. The relevant notice in terms of the Coronavirus Regulations has been provided.**
- 7. Notice to the Local Authority had been given.**
- 8. In December 2020 the Respondents were sent pre action letters in addition to the correspondence and communication sent by the lettings agents. Relevant proof of service was lodged and copy correspondence was also lodged.**
- 9. A full Rent Statement for the property was lodged and an updated rent statement was lodged on 16th December 2021. Rent owed from same amounted to £5925 as at 16th December 2021 and the Tribunal found this established that more than 3 months' rent was in arrears both at the date on which the notice of intention to seek possession of the house was served and at the date of the hearing.**
- 10. The Tribunal considered in terms of Ground 11 there had been a persistent delay in paying rent as the last payment to rent was in September 2020. Ground 12 was also established.**
- 11. The Tribunal made enquiry in regards the Respondents circumstances and were told the Respondents had been in work at the time of the tenancy commencement and had no dependents. There was no information regarding a language barrier other than that noted.**
- 12. Accordingly in terms of Section 18 of the 1988 Act the Tribunal granted an Order against the Respondent for possession of the Property.**
- 13. The Tribunal on the circumstances before it and the evidence provided considered it was reasonable that an Order be granted.**

Reasons for Decision

The Tribunal considered the evidence provided on behalf of the Applicant as being thorough and detailed. The Applicant's representative had made credible and reliable submissions in support of grant of the Order. The Tribunal considered the circumstances of both parties and the steps taken by the Applicant. No payments had been made of any level since 2020 and there were no vulnerabilities in terms of the Respondent's circumstances known to the Applicant or Tribunal. 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.

Legal Member/Chair

17 January 2022
Date