



**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/21/2830**

**Re: Property at 30 George Street, Inverness, IV1 1NJ (“the Property”)**

**Parties:**

**Blackbridge Furnishings Limited, 42B Thornbush Road, Inverness, IV3 8AB (“the Applicant”)**

**Mr Adam Franiak, 30 George street, Inverness, IV1 1NJ (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Leslie Forrest (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property and that the period of charge should be reduced to 14 days in terms of Section 216(4) of the Bankruptcy and Diligence etc (Scotland) Act 2007.**

**[1] Background**

The application before the Tribunal was made in terms of Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The Applicant sought an order to evict the Respondent from the property. The Tribunal intimated the application to the Respondent by sheriff officer on 28 March 2022 and advised him of the date, time and conference call details of today’s case management discussion. The Respondent was invited to make written representations, but no written representations were received by the Tribunal.

## **The case management discussion**

[2] The Applicant was represented by Mr Smith, solicitor. The case management discussion proceeded by conference call and in the absence of the Respondent. The Tribunal was advised that the Applicant relied upon Ground 8 of the Housing (Scotland) Act 1988 in respect that the Respondent was in rent arrears in excess of 3 months when the Notice was served and remains in rent arrears in excess of 3 months. It was submitted that it was reasonable in all the circumstances for the Tribunal to grant the order evicting the Respondent from the property; the Applicant's representative explained that the Respondent has failed to respond to his correspondence and failed to respond when an employee of the Applicant attended at the property. The Applicant has made 2 previous applications to the Tribunal, one for access to the property to check its condition and the other for an order for payment in respect of rent arrears. The Applicant's representative advised that the Respondent failed to cooperate in allowing access to the property and has not responded to the Charge for Payment served upon him. As far as known to the Applicant, the Respondent reside alone at the property. The Applicant complied with the pre-action protocol by writing to the Respondent about the level of rent arrears, but there was no response from the Respondent. The Applicant's representative moved the Tribunal to grant the order for eviction and if so granted, moved the Tribunal to vary the period of charge in terms of section 216(4) of the Bankruptcy and Diligence etc (Scotland) Act 2007. Further, the Applicant's representative moved to dispense with the period of notice in the notice of removal, in terms of Rule 41C (3) of the 2017 Regulations.

## **[3] Findings in Fact**

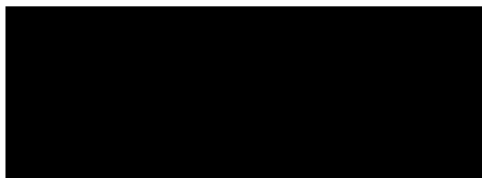
- i. The parties entered into a short assured tenancy which commenced 1 July 2015.
- ii. The Applicants' representative served the Notice in terms of Section 19 of the Housing (Scotland) Act 1988 on the Respondent by recorded delivery on 29 April 2021.
- iii. As at the date of the Notice served, the Respondent was in arrears of rent in excess of 3 months.
- iv. As at the date of this case management discussion, the Respondent was in arrears of rent in excess of 3 months.

**[4] Reason for Decision**

The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Tribunal was satisfied that ground 8 has been established and that it is reasonable or the Tribunal to grant the order for eviction. The Applicant complied with the pre-action protocol, by issuing letters to the Respondent. The Respondent failed to engage with the Applicant or its representative. The Respondent failed to lodge written representations or participate in the case management discussion. Given the lack of engagement from the Respondent and the level of rent arrears, the Tribunal was persuaded that cause had been shown to vary the period of charge from 28 days to 14 days. The Tribunal was not however persuaded that the period of notice in the notice of removal should be dispensed with.

**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.**



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**Legal Member/Chair**

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**14 April 2022**  
**Date**