

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 (Act)**

Chamber Ref: FTS/HPC/EV/22/1440

Re: Property at Flat 1/1, 118 Calder Street, Glasgow, G42 7RB (“the Property”)

Parties:

Daniel McCall T/A DB Properties, 146 Kingspark Road, Glasgow, G44 4SX (“the Applicant”)

Mr Gordon McDermit, Flat 1/1, 118 Calder Street, Glasgow, G42 7RB (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Linda Reid (Ordinary Member)

Decision (in absence of the Parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be refused.

Background

This is an application under section 18(1) of the Act and Rule 65 of the Procedure Rules for eviction and recovery of possession on the basis of grounds 8, 11 and 12 of Schedule 5 to the Act.

The following documents were considered by the Tribunal:

1. Application received 17 May 2022;
2. Assured Tenancy Agreement (**AT**) dated 1 May 2017;
3. AT6 served 30 October 2020 setting out ground 8;
4. Certificate of Service by Sheriff Officers of AT6 dated 30 October 2020;
5. Schedule of Rent Arrears at 12 September 2021;
6. Certificate of Service of CMD Notification on Respondent dated 3 February 2023;
7. CMD Note of 8 March 2023; and

8. Email of 17 March 2023 to both Parties with CMD Notification.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 25 April 2023. Neither Party participated nor were they represented.

The Tribunal delayed the start of the CMD to see if the Parties would participate. They did not.

The Tribunal were satisfied that the Parties had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair.

The case had been continued from a previous CMD on 8 March 2023 at which only the Applicant's Solicitor had participated. The Tribunal had noted then that there was no section 11 Notice. The Tribunal had informed the Applicant's solicitor that it could not grant the order sought without the section 11 Notice and evidence of service on the local authority. The Applicant's solicitor undertook to forward this documentation to the Tribunal.

The Tribunal accordingly continued the case to a further CMD for the production of the section 11 Notice. The section 11 Notice had not been received and there was no appearance at today's CMD.

In the circumstances the Tribunal determined to refuse the application given that no section 11 Notice had been produced. The Tribunal could not grant the application without such notice having been served on the local authority.

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.

25 April 2023

Legal Member/Chair

Date