



**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/23/0550**

**Re: Property at 94 Crofffoot Road, Glasgow, G44 5JX (“the Property”)**

**Parties:**

**Lowther Homes Limited, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL  
 (“the Applicant”)**

**Mr Andrew Blackett, 94 Crofffoot Road, Glasgow, G44 5JX (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Angus Lamont (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be determined without a Hearing and made an Order for Possession of the Property.**

**Background**

1. By application, received by the Tribunal on 21 February 2023, the Applicant sought an Order for Possession of the Property under Section 18(1) of the Housing (Scotland) Act 1988 (“the Act”). The Grounds relied on were Grounds 8, 8A, 11 and 12 of Schedule 5 to the Act, namely that at the date of the service of the Form AT6 Notice under Section 19 of the Act and at the date of the Case Management Discussion, at least three months’ rent lawfully due by the Respondent was in arrears (Ground 8), that the Respondent has accrued rent arrears under the tenancy in respect of one or more periods, and the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months’ rent when notice is given under Section 19 on this Ground or, if dispensed with, when proceedings are raised for an Order of Possession on this Ground (Ground 8A), that the Respondent has persistently delayed paying rent which has become lawfully due (Ground 11) and that some rent is lawfully due and is unpaid (Ground 12).

2. The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 29 January 2015 and, if not terminated on 28 July 2015, continuing thereafter on a monthly basis until terminated by either Party giving two months' notice, a Notice to Quit dated 31 August 2022, requiring the Respondent to remove from the Property by 28 November 2022, with evidence of service of both Notices on the Respondent by sheriff officer on 1 September 2022, and a Rent Statement showing arrears as at 1 February 2023 of £9,012.30.
3. The application was also accompanied by a copy of a Notice served under Section 19 of the Act (Form AT6), advising the Respondent that the Applicant intended to apply to the Tribunal for an Order for Possession, that the Grounds relied on were Grounds 8, 11 and 12 of Schedule 5 to the Act and that proceedings would not be raised before 19 September 2022, together with evidence of service of the Notice on the Respondent, by sheriff officer, on 1 September 2022.
4. The Applicant also provided copies of letters of 16 February 2021 and 17 February 2022 to the Respondent, signposting him to sources of possible advice and financial assistance, as required by the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
5. The Applicant stated that, despite requests to make payments, the Respondent had failed to do so. Over 9 months' rent had been due and owing when the Section 19 Notice was served. As all the facts supporting Ground 8A had been in the Section 19 Notice (which was served before Ground 8A came into force), it was reasonable to dispense with the requirement of service of an additional notice in relation to Ground 8A. The Respondent had persistently delayed paying rent that had become lawfully due, some rent was unpaid both on the date of service of the Section 19 Notice and at the date on which these proceedings for possession were begun, and the Applicant had complied with the pre-action requirements. In all the circumstances, the Applicant was entitled to an Order for Possession of the Property.
6. On 22 March 2023, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 12 April 2023. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

7. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 26 April 2023. The Applicant was represented by Mr David Adams, Senior Solicitor, Wheatley Group. The Respondent was not present or represented.
8. The Applicant's representative advised the Tribunal that the rent arrears now stand at £10,213.24. He understood that the Respondent had told the Applicant's Housing Officer in December 2022 that he was unemployed and that, although he was in receipt of Universal Credit, he was unable to pay

anything at all towards the rent, as he had other debts. There had been no communication from the Respondent since then and no rent had been paid.

### **Reasons for Decision**

9. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
10. Section 18(1) of the Act states that the Tribunal shall not make an Order for Possession of a house let on an Assured Tenancy except on one or more of the Grounds set out in Schedule 5 to the Act. By Section 18(3) of the Act, if the Tribunal is satisfied that any of the Grounds in Part I or Part II of Schedule 5 is established, the Tribunal shall not make an Order for Possession unless the Tribunal considers it reasonable to do so.
11. The present application is made under Grounds 8 and 8A of Part I of Schedule 5 and also under Grounds 11 and 12 of Part II.
12. Ground 8 of Schedule 5 to the 1988 Act provides that the Tribunal may make an Order for Possession if, both at the date of the service of the Notice under Section 19 of the 1988 Act and at the date of the Hearing at least three months' rent lawfully due from the tenant is in arrears. Ground 8A (introduced by the Cost of Living (Tenant Protection) (Scotland) Act 2022) applies where the Respondent has accrued rent arrears under the tenancy in respect of one or more periods, and the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent when notice is given under Section 19 on this Ground or, if dispensed with, when proceedings are raised for an Order of Possession on this Ground. The Tribunal was content to dispense with the requirement that notice be given under Ground 8A, which had not been in force when the Section 19 Notice was served, but applies in this case as the application was received after 28 October 2022, as the rent arrears as at the date of serving of the Section 19 Notice already exceeded 6 months.
13. The Tribunal was satisfied from the copy letters provided by the Applicant that the requirements of The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 had been met by the Applicant.
14. The Tribunal was also satisfied that, both at the date of service of the Form AT6 Notice and at the date of the First Case Management Discussion the arrears of rent lawfully due by the Respondent to the Applicant exceeded three months and that the requirements of Ground 8A had also been met.
15. The remaining question for the Tribunal to decide was whether it would be reasonable to make an Order for Possession.

16. The Tribunal noted that the Respondent had told the Applicant that he was in receipt of Universal Credit. This would have included a housing element, but he had chosen not to pay that to the Applicant. He had deliberately prioritised other debts over payment of his rent, despite a proportion of his Universal Credit being a housing allowance. He had paid no rent at all since August 2022. The arrears are long-standing and are very substantial, and the Respondent has made no payments at all since August 2022 and has failed to engage with the Applicant with a view to agreeing a payment plan.
17. Having considered all the evidence before it, the Tribunal decided that it would be reasonable to make an Order for Possession of the Property under Grounds 8 and 8A of Schedule 5 to the Act.
18. The application had also been made under Grounds 11 and 12 of Schedule 5 to the 1988 Act, but, having determined the application under Grounds 8 and 8A, it was not necessary for the Tribunal to consider further the application under Grounds 11 and 12.
19. The Decision of the Tribunal was unanimous.

### **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**

**26 April 2023**  
**Date**