

**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 of the Housing (Scotland) Act 1988**

**Chamber Ref: FTS/HPC/EV/19/2638**

**Property: Flat 1 /2, 154 Gallowhill Road, Paisley PA3 4UF ("Property")**

**Parties:**

**Julie Boyle, 2 Mosshall Drive, Bishopton PA7 5QL ("Applicant")**

**Courtney Todd, Flat 1 /2, 154 Gallowhill Road, Paisley PA3 4UF ("Respondent")**

**McArthur Renton Letting Ltd, 6A Mains Drive, Erskine PA8 7JQ ("Applicant's Representative")**

**Tribunal Members:**

**Joan Devine (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for possession of the Property should be made in terms of section 18 of the Housing (Scotland) Act 1988.**

**Background**

The Applicant sought recovery of possession of the Property in terms of Section 18 of the Housing (Scotland) Act 1988 ("1988 Act"). The grounds for seeking possession were stated to be grounds 8 and 11. The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement dated 6 July 2017 which commenced on 1 August 2017; an AT5 signed on behalf of the Applicant and by the Respondent on 6 July 2017; an AT6 dated 18 June 2019 with sheriff officer's certificate of service evidencing service on 19 June 2019; a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 and a statement showing arrears of rent. There was also produced a copy notice to quit dated 1 June 2019 in which possession of the Property was requested by 4 July 2019.

A copy letter dated 21 August 2019 stated to be from the Applicant was lodged with the Tribunal in which it was stated that the Applicant authorised the Applicant's Representative to act on their behalf in matters relating to the Property.

## **Summary of Case Management Discussion**

A case management discussion took place before the Tribunal on 3 December 2019 at the Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The Applicant was represented by Stewart Renton of the Applicant's Representative. There was no appearance on behalf of the Respondent. Mr Renton explained to the Tribunal that arrears of rent had built up since March 2018. He said that he had provided information to the Local Authority in the hope that they could provide financial support to the Respondent but the arrears had continued to accumulate.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement for the Property dated 6 July 2017.
2. The period of the Lease was from 1 August 2017 to 2 February 2018 and thereafter on a month to month basis.
3. The rent in terms of the Tenancy Agreement was £450 per month.
4. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
5. A Form AT6 dated 18 June 2019 was served on the Respondent by sheriff officer on 19 June 2019.
6. An Application was made to the Tribunal on 23 August 2019 which was more than 14 days after the date of service of the AT6 and less than 6 months after the date on which proceedings for possession could have been raised.
7. The Applicant's Representative is authorised to act on behalf of the Applicant in respect of this Application.
8. The Applicant sought recovery of possession of the Property on Grounds 8 and 11 in schedule 5 to the 1988 Act.
9. The Respondent had failed to make payment of rent due over the period from March 2018 to August 2019. The total outstanding was £2611.28.
10. At the date of service of the AT6 and at the date of making this Application there was at least 3 months' rent lawfully due in arrears. The basis for

possession set out in grounds 8 and 11 of schedule 5 to the 1988 Act were established.

11. Notice of the date of the hearing had been given to the Respondent by letter dated 30 October 2019 which had been served on the Respondent by sheriff officer on 31 October 2019.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 18 of the 1988 Act. The basis for possession set out in grounds 8 and 11 of schedule 5 to the 1988 Act had been established. Ground 8 is a “mandatory” ground and ground 11 is discretionary. It appeared to the Tribunal that the Respondent had persistently delayed paying rent which was lawfully due. For these reasons, the Tribunal determined to grant an Order for possession. The AT6 had been served on the Respondent and had provided the requisite period of notice. This Application had been made within a period of 6 months after the service of the AT6.

### **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for possession.

### **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal’s decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**

Joan Devine

Joan Devine  
Legal Member

Date

3 December 2019