

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/19/0150**

**Re: Property at 35 Glen Lednock Drive, Craigmarloch, Cumbernauld, Glasgow, G68 0EJ ("the Property")**

**Parties:**

**Places For People Homes Limited, c/o Touchstone, 2 Crescent Office Park, Clarks Way, Bath, BA2 2AF ("the Applicant")**

**Ms Cheryl Stallan, 35 Glen Lednock Drive, Craigmarloch, Cumbernauld, Glasgow, G68 0EJ ("the Respondent")**

**Tribunal Members:**

**Lesley Ward (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 at 35 Glen Lednock Drive Craigmarloch Cumbernauld Glasgow G68 0EJ be made in terms of s18 of the Housing (Scotland) Act 1988 on the basis of ground 11 of schedule 5 of the Act since the respondent has persistently delayed in paying rent and it is reasonable for an order for possession to be granted**

This was a case management discussion 'CMD' in connection with an application in terms of rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules, 'the rules' and s18 of the Housing (Scotland) Act 1988, 'the Act'. The tribunal had before it the following copy documents:

1. Application dated 14 January 2019 and received on the 15 January 2019.
2. Short assured tenancy agreement for let of the property for 12 months from 4 July 2003.
3. AT5 form dated 4 July 2003.
4. Notice to quit dated 21 December 2018 with an ish date of 4 July 2019.

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5. S11 intimation on local authority.
6. Rent arrears schedule.
7. AT6 dated 21 December 2018.
8. S33 notice dated 21 December 2018 with an ish date of 4 July 2019.
9. Sheriff Officer's execution of service of items 4, 7 and 8 on the tenant on 21 December 2018.
10. Sheriff Officer's execution of service of the application and CMD on the respondent dated 20 March 2019.
11. Land certificate.
12. Letter from applicant's solicitors to the tribunal dated 4 February 2019.

### **Preliminary matter**

Ms Kirsty Morrison, paralegal of TC Young solicitors, attended the CMD on behalf of the applicants' agents Patten and Prentice solicitors. There was no appearance by the respondent and the tribunal had sight of the sheriff officer's execution of service dated 20 March 2019 as noted at item 10 above. The tribunal was satisfied that notification had been carried out in terms of rule 24 and proceeded with the CMO in terms of rule 29.

Ms Morrison was asked to make submissions in connection with ground 12, given that this is a contractual tenancy and s18(6)(b) of the Act makes it clear that the tenancy agreement must make reference to the ground in question. Ms Morrison stated that she was instructed to withdraw ground 12 and proceed solely on the basis of ground 11.

### **Findings in fact**

1. The applicants are the owners of the property.
2. The applicants' predecessors entered into a short assured tenancy with the respondent for let of the property for the initial period of 12 months from and including the 4 July 2003.
3. The respondent was served with an AT6 on 21 December 2018.
4. A contractual tenancy is still in existence as the tenancy has not yet reached its ish.
5. Rent arrears have accrued since October 2018.
6. The sum of £1170 is outstanding as at today's date.
7. The respondent has persistently delayed paying rent lawfully due.
8. On the balance of probability the delay in paying the rent arrears is not due to a failure or delay in the payment of relevant housing benefit.
9. It is reasonable in all of the circumstances that an order for possession be made.

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## **Reasons**

The tribunal proceeded with the CMD in connection with ground 11. Ms Morrison made submissions regarding the rent account. She stated that rent arrears accrued in 2015, 2016. These largely related to a short fall in payments due to an increase in the monthly rental sum. In October 2018 rent arrears started to accrue again. The rent statement makes it clear that the October rent payment was outstanding until December 2018. Rent has been paid since then but there continue to be around 2 months of rent outstanding. Ms Morrison stated that the current arrears are £1170.

She also made submissions regarding the increases in rent which have been issued since the applicants acquired the property in 2013. Letters notifying increases were sent to the respondent in July 2014, November 2014, November 2017 and January 2019. The current rent is £575.

In her submission the respondent has persistently delayed in paying rent.

The tribunal was satisfied on the evidence produced that the respondent has persistently delayed in paying rent which has become lawfully due.

The tribunal turned to consider the question of the reasonableness of making the order sought. The respondent has not lodged any representations with the tribunal. Ms Morrison advised that several letters have been sent to the respondent regarding the rent arrears and no reply has been received. Rent arrears have increased slightly since the AT6 was served in December 2018. Ms Morrison was unable to provide any information regarding any entitlement the respondent may have to housing benefit. The tribunal noted that the respondent appears to have occupied the property since 2003, some 16 years. Ms Morrison advised that the applicants bought the property in 2013 and the respondent was a sitting tenant so they have limited information regarding her.

The tribunal is satisfied that the respondent has received notice of today's CMD in terms of rule 24. The tribunal proceeded with the CMD in the respondent's absence in terms of rule 29. The tribunal considered that it had enough information before it today to make a decision and the procedure has been fair. The respondent not availed herself of the opportunity to make any representations to either the applicants or the tribunal regarding the arrears. The tribunal is satisfied that it is reasonable in all of the circumstances to make the discretionary order sought.

## **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**

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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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10 April 2019

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Lesley A Ward Legal Member

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Date