

**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/18/0591**

**Re: Property at 34 Ella Gardens, Bellshill, ML4 2NT (“the Property”)**

**Parties:**

**Mr James I Smith, 89 North Orchard Street, Motherwell, ML1 3GL (“the Applicant”)**

**Miss Kirstin Tomlinson, 34 Ella Gardens, Bellshill, ML4 2NT (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (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 order for possession of the property be granted.**

**BACKGROUND**

1. The application is for an order for possession of the Tenancy of the property known as and forming 34 Ella Gardens, Bellshill, ML4 2NT.
2. An application was submitted to the Tribunal by the Applicant on 26 February 2018 setting out that the Applicant sought possession of the Tenancy.
3. Documents lodged with the Tribunal were the Tenancy Agreement, the AT5, AT6, Section 11 Notice, Statement of Rent Arrears and confirmation of service of the Notices by Sheriff Officers.
4. The Tribunal fixed a hearing which was intimated to the Parties. The Respondent was advised by the Tribunal under cover of letter dated 6 April 2018 that written representations in response to the application was required to be lodged by 24 April 2018. The Respondent was also told that she was

required to attend the hearing. The Respondent replied by email the Tribunal on 26 April 2018 to the effect that she did not wish to contest the Application.

5. The Hearing took place with no appearance from the Respondent. No further contact had been received from her. The Applicant was represented by his Solicitor, Mr. Michael Ritchie. The Tribunal was provided with an up to date statement of the rent currently due in the amount of £3,430. No payments to account had been made since the Notices had been served.

## **FINDINGS IN FACT**

1. The Applicant was served an AT5 on the Respondent on 17 February 2017 in advance of the creation of the Tenancy.
2. The Applicant and the Respondent entered into a Tenancy Agreement commencing 18 February 2017. The period of the lease was till 18 August 2017. Rent was fixed at £380 per calendar month.
3. The Tenancy was a Short Assured Tenancy.
4. The Applicant served form AT6 dated 1 February 2018 on the Respondent on 5 February 2018 by Sheriff Officers. The AT6 intimated to the Respondent that the Landlord intended to initiate proceedings for recovery of possession on grounds 8, 11 and 12 of Schedule 5 to the Housing (Scotland) Act 1988.
5. The Applicant served a Section 11 Notice on the Local Authority by email dated 26 February 2018
6. As at the date of application the arrears of rent due were £2,290. As at the date of the Hearing, the arrears due were £3,430, being in excess of three months' rent due.
7. The Applicant is entitled to the order for repossession.

## **REASONS FOR DECISION**

1. The Tribunal proceeded on the basis of the written documents which were before it as detailed above and representations made by the Applicant's solicitor. He invited the Tribunal to grant the order sought and confirmed the amount of the rent arrears.
2. The Tribunal considered the evidence and representations, the Respondent's email to the effect that she did not contest the application and the fact that she did not appear at the Hearing. The Tribunal accordingly considered that there was sufficient information on which to make a decision. The Tribunal was satisfied that Ground 8 was established and accordingly had no discretion other than to grant the order for possession.

## **DECISION**

1. The order for eviction/possession is granted.

## **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.

A Strain

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Legal Member/Chair

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Date

9 May 2018