

**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/19/1411**

**Re: Property at 48 Doon Avenue, Dunbar, EH42 1DJ (“the Property”)**

**Parties:**

**Mrs Norma Watt, Glen Cottage, Thurston, Dunbar, EH42 1SA (“the Applicant”)**

**R.C.S., Mr Gerard Friel, 48 Doon Avenue, Dunbar, EH42 1DJ (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction and recovery of possession be granted.**

**Background**

This is an application under Rule 65 of the Tribunal Rules and section 18(1) of the Act. The Applicant seeks recovery of possession and eviction under one of the discretionary grounds in Schedule 5 to the Act, namely Ground 13. Ground 13 allows recovery of possession and eviction where an obligation of the tenancy other than payment of rent has been broken.

The Tribunal had regard to the following documents:

1. Application dated 8 May 2019;
2. Minute of Lease commencing 14 April 2016;
3. AT5;
4. Notice to Quit dated 27 March 2019;
5. AT6 dated 27 March 2019;
6. Royal mail Proof of Service and email from Solicitor confirming service;
7. Section 11 Notice;
8. Sheriff Officer Certificate of Service of CMD notification on Respondent.

**Case Management Discussion (CMD)**

Mr Alan Strain

The case called for a CMD on 25 July 2019. The Applicant was not present but was represented by her solicitor. The Respondent was not present and was not represented.

The Tribunal was satisfied that the Respondent had service of the CMD notification and as such was aware that the CMD would proceed in his absence and that the Tribunal could determine the matter if satisfied that it had sufficient information to do so and it was fair.

The Tribunal considered the documentary evidence before it and made the following findings in fact:

1. The Parties entered in to a Minute of Lease (**Lease**) commencing 14 April 2016;
2. Clause 8 of the Lease prohibits subletting, taking in lodgers or paying guests or sharing the accommodation with others;
3. The Respondent has allowed multiple tenants to stay in the Property;
4. Notice to Quit and AT6 have been validly served upon the Respondent;
5. Section 11 Notice has been served on the local authority.

The Tribunal then considered the application of Ground 13. It was clear that Clause 8 of the Lease had been breached. Ground 13 is a discretionary ground and the Tribunal then had to consider whether or not to grant the order sought in light of the finding that Ground 13 had been established.

The Respondent had not appeared and had not made any representations. In the circumstances the Tribunal determined to grant the order for eviction and recovery of 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.**

**Mr Alan Strain**

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**Legal Member/Chair**

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**Date**

25 July 2019.