



**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/19/1568

**Re: Property at 17B Millcroft Road, Carbrain, Cumbernauld, G67 2QE (“the
Property”)**

Parties:

**Tradecast Building Services Ltd, c/o Buchanan MacLeod, 180 West Regent
Street, Glasgow, G2 4RW (“the Applicant”)**

**Mr Michael Bradley, 17B Millcroft Road, Carbrain, Cumbernauld, G67 2QE (“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/recovery of possession be
granted.**

Background

This is an application for eviction/recovery of possession under Rule 65 and section
18(1) of the Act. The Grounds stated are 8, 11 and 12 of Schedule 5 to the Act.

The Tribunal had regard to the following documents:

1. Application received 22 May 2019;
2. Tenancy Agreements dated 18 April 2016 and 8 December 2016;
3. AT5;
4. Notice to Quit;
5. Section 11 Notice;

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6. Certificate of Service of Notice to Quit by Sheriff Officers dated 14 November 2018;
7. AT6 dated 7 September 2018;
8. Proof of Service of AT6 dated 11 September 2018;
9. Decision of the Tribunal dated 15 April 2019;
10. Statement of Rental Arrears.

Case Management Discussion (CMD)

The case called for a CMD on 19 July 2019. The Applicant was not present but were represented by their Solicitor. The Respondent did not appear and was not represented.

The Tribunal was satisfied that the Respondent had received notification of the CMD by virtue of the certificate of service of the notification from Sheriff Officers. The Respondent accordingly was aware of the CMD and the fact that the Tribunal could determine the matter in his absence if satisfied that it had sufficient information and it was fair to do so.

The Tribunal considered the documentation which it had before it and made the following findings in fact:

1. The Parties entered in to a tenancy agreement dated 18 April 2016 as modified by a subsequent agreement dated 8 December 2016;
2. Notice to Quit was served on 14 November 2018;
3. AT6 was served on 11 September 2018 and stated that 21 September 2018 was the earliest date that proceedings could be raised;
4. The Applicant has persistently delayed paying rent lawfully due;
5. As at the date of the CMD rent arrears amounted to £3,932.81.

Proceedings were not raised until 22 May 2019. Section 19(7) of the Act provides that the AT6 shall cease to have effect 6 months after the date on which proceedings for possession could have been raised. The AT6 in this case has ceased to have effect. Furthermore, the AT6 did not provide the statutory notice of 14 days.

The Tribunal was informed that proceedings (EV/18/2573) had been raised in time but had been subsequently dismissed after an agreement to settle the arrears which had now been defaulted upon.

The Tribunal was invited to exercise its dispensing power in section 19(1)(b) of the Act and dispense with the requirement to serve the AT6. Given the arrears and the history of the proceedings the Tribunal considered that it was reasonable to do and accordingly dispensed with the requirement to serve an AT6. The tribunal could only do so with regard to Grounds 11 and 12.

The Tribunal then considered the application in terms of Grounds 11 and 12 and found that these were satisfied.

The Tribunal determined that the order for eviction/recovery of possession be granted.

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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



Legal Member/Chair

19 July 2019

Date