



**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/19/1826

**Re: Property at Flat 7, 5 Dumbryden Grove, Edinburgh, EH14 2QP (“the
Property”)**

Parties:

**Mr Suning Zhang, 305 Building 4, Jingyutangxiang, Jianguang Rd, Tangzhou
Jiangsu, China, 225000, China (“the Applicant”)**

**Miss Natasha Kelly, Mr Zeshan Ikram, Flat 7, 5 Dumbryden Grove, Edinburgh,
EH14 2QP; Flat 7, 5 Dumbryden Grove, Edinburgh, EH14 2QP (“the
Respondents”)**

Tribunal Members:

Neil Kinnear (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

This is an application dated 11th June 2019 brought in terms of Rule 65 (Application for order for possession in relation to assured tenancies) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant provided with his application copies of a short assured tenancy agreement, notices to quit, section 19 notices (form AT6), Section 11 notice, rent arrears statement and relevant executions of service.

All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The form AT6 intimated to the tenant that the Applicant intended to raise proceedings for possession of the house on grounds 8, 11 and 12 of Schedule 5 to the *Housing (Scotland) Act 1988*.

The Respondents had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 5th July 2019, and the Tribunal was provided with the executions of service.

A Case Management Discussion was set for 6th September July 2019 at George House, George Street, Edinburgh. On 5th September 2019, the Parties' respective representatives contacted the Tribunal and advised by e-mails that they had reached agreement that the Respondents consented to the Tribunal granting an order for possession of the Property, and requesting that the parties and their representatives be excused attendance at the Case Management Discussion.

The Tribunal was content to proceed on that basis, and considered it appropriate in these circumstances to discharge the Case Management Discussion and to make a decision without a Case Management Discussion in terms of Rule 18 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal decided after considering the written representations of the Parties' respective representatives that having regard to the undisputed facts it is able to make sufficient findings to determine the case, and to do so would not be contrary to the interests of the parties.

Statement of Reasons

In terms of Section 18(3) of the *Housing (Scotland) Act 1988* ("the Act"), if the Tribunal is satisfied that any of the grounds in Part I of Schedule 5 to the Act is established then, subject to subsections (3A) and (6), the Tribunal shall make an order for possession.

Section 18(3A) of the Act provides that if the First-tier Tribunal is satisfied (a) that Ground 8 in Part I of Schedule 5 to this Act is established; and (b) that rent is in arrears as mentioned in that Ground as a consequence of a delay or failure in the payment of relevant housing benefit or relevant universal credit, the Tribunal shall not make an order for possession unless the Tribunal considers it reasonable to do so.

The Tribunal is satisfied that ground 8 contained in Part 1 of Schedule 5 to the Act has been established. The Tribunal has not been satisfied that rent is in arrears as a consequence of a delay or failure in the payment of relevant housing benefit or relevant-universal credit. The Respondents accepted that is not the case.

In terms of Section 18(4) of the Act, if the Tribunal is satisfied that any of the grounds in Part II of Schedule 5 to this Act is established, the Tribunal shall not make an order for possession unless the Tribunal considers it reasonable to do so.

Section 18(4A) of the Act provides that in considering for the purposes of subsection (4) above whether it is reasonable to make an order for possession on Ground 11 or 12 in Part II of Schedule 5 to this Act, the First-tier Tribunal shall have regard, in particular, to the extent to which any delay or failure to pay rent taken into account by the Tribunal in determining that the Ground is established is or was a consequence of a delay or failure in the payment of relevant housing benefit or relevant universal credit.

The Tribunal is satisfied that grounds 11 and 12 contained in Part 2 of Schedule 5 to the Act have been established, and considers that it is reasonable to make an order for possession. The Tribunal has not been satisfied that rent is in arrears as a consequence of a delay or failure in the payment of relevant housing benefit or relevant universal credit. The Respondents accepted that is not the case.

Decision

In these circumstances, the Tribunal will make an order for possession of the house let on the tenancy as sought in this application of consent.

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.

Neil Kinnear

Legal Member/Chair

06/09/19

Date