



**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 (“the Act”)**

**Chamber Ref: FTS/HPC/EV/18/2431**

**Re: Property at Cnoc na Moine, Blackhill, Killimster, Wick, KW1 4RX (“the  
Property”)**

**Parties:**

**Mr Jamie Cormac Miller, Cairnview, 21 Scotston, Laurencekirk, AB30 1ND (“the  
Applicant”)**

**Mr Steven George Bruce, Cnoc na Moine, Blackhill, Killimster, Wick, KW1 4RX  
 (“the Respondent”)**

**Tribunal Members:**

**Ewan Miller (Legal Member) and Helen Barclay (Ordinary Member)**

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

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

**Background**

The Applicant was the owner of the Property. He had let the Property to the Respondent by way of a Short Assured Tenancy commencing on 9 June 2014. The Applicant sought recovery of possession of the Property under Section 18(1) of the Act and, in particular, Grounds 8 and 11 of Schedule 5 to the Act. The Applicant had applied to the Tribunal on 6 September 2018 for recovery of possession of the Property

**The Hearing**

The Tribunal held a hearing at the Pulteney Centre, Wick on 13 February 2019. The Tribunal comprised Mr E K Miller Chairman and Legal Member and Mrs H Barclay, Ordinary Member.

The Applicant together with his mother and father were present. He was represented by Miss E Robertson of Young Robertson & Co, Solicitors, Thurso. The Respondent was neither present nor represented.

The Tribunal noted that the papers confirming the date and place of the hearing had been served on the Respondent on 22 January 2019 by Graham Stewart & Co, Sheriff Officers. The Tribunal was satisfied that the papers had been served timeously and properly on the Respondent and therefore it was competent for the Tribunal to make a decision in his absence.

### Findings in Fact

The Tribunal found the following facts to be established:-

- The Applicant was the owner of the Property;
- The Property had been let to the Respondent by way of a Short Assured Tenancy commencing 9 June 2014 at a monthly rental of £750;
- At the date of service of the AT6, the raising of the application to the Tribunal and the date of the Hearing, more than 3 months rent was outstanding;
- There was no evidence that the arrears were in any part due to issues regarding payment of housing benefit or the like;
- The relevant AT6, Notice to Quit and s11 homelessness notification had all been served timeously and correctly.

### Reasons for Decision

The Tribunal had before it bank statements from the Applicant's bank account. This showed a long history of over 4 years of arrears of rental that were greater than 3 months. By the date of the hearing the Respondent was in arrears nearing £17,000. The Tribunal was readily satisfied that more than 3 months rental had been outstanding at all relevant dates. Accordingly the test for the mandatory ground of eviction contained in Ground 8 of Schedule 5 to the Act had been more than met. The Tribunal was also satisfied that the circumstances also merited a finding that Ground 11 had been met. The papers before the Tribunal contained an elongated exchange of messages between the Applicant and the Respondent. These showed an endless list of requests by the Applicant for rental to be paid over several years. It also showed numerous promises by the Respondent regarding payment, the majority of which were broken. The Tribunal was satisfied that there was a persistent delay in the payment of rent that meant Ground 11 had also been satisfied.

The Tribunal was satisfied that the appropriate AT6 and Notice to Quit had been served on the Respondent by recorded delivery on 18 January 2018 and that appropriate notice had been given. The Tribunal was also satisfied that the Tribunal paper themselves had been served on the Respondent by Sheriff Officers

In the circumstances the Tribunal was obliged to grant the eviction order under Ground 8 of Schedule 5 to the Act and was also content to do so under Ground 11

## 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.

E. Miller

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Legal Member/Chair

13/2/19  
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Date