



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/EV/18/2660**

**Re: Property at 5 Rosskeen Drive, Invergordon, IV18 0JU (“the Property”)**

**Parties:**

**Mr Donald Beaton, Rowanbank, Kildary, Invergordon, Ross-shire, IV18 0NN (“the Applicant”)**

**Miss Sarah - Jane Rickwood, 5 Rosskeen Drive, Invergordon, IV18 0JU (“the Respondent”)**

**Tribunal Members:**

**Helen Forbes (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Possession should be made in terms of Section 18(1) of the Housing (Scotland) Act 1988**

**Background**

1. This is an application in terms of Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for possession of the Property under Section 18 of the 1988 Act.
2. The Tribunal had before it the following documents:
  - (i) Application dated 4<sup>th</sup> October 2018
  - (ii) Unsigned Tenancy Agreement between the parties dated 17<sup>th</sup> July 2017
  - (iii) Schedule of rent arrears from 15<sup>th</sup> August 2017 to 15<sup>th</sup> September 2018
  - (iv) Notice to Quit dated 18<sup>th</sup> May 2018
  - (v) Letter to Respondent from Wilsons Solicitors dated 2<sup>nd</sup> August 2018
  - (vi) Proof of Recorded Delivery – collected and signed for by Respondent on 24<sup>th</sup> May 2018
  - (vii) Form 11

- (viii) Form AT6 dated 14<sup>th</sup> September 2018
- (ix) Certificate of Posting of Form AT6 dated 14<sup>th</sup> September 2018
- (x) Title Sheet for ROS5113
- (xi) Certificate of Intimation from Sheriff Officers of service of the Application and associated documents upon the Respondent on 21<sup>st</sup> December 2018.

### **The Case Management Discussion**

3. The Tribunal held a case management discussion on 15<sup>th</sup> January 2019 at the Spectrum Centre, 1 Margaret Street, Inverness. The Applicant was not present and was represented by Ms Laura McCarthy, Solicitor, Munro and Noble. Ms McCarthy was accompanied by Mr James Noone, Solicitor, who was present for the purposes of observation. The Respondent was not present and had made no written representations. The Tribunal proceeded in terms of Rule 29 of the Rules, having satisfied itself that the requirements of Rule 24(1) had been complied with and that the Respondent had been notified of the Application and the case management discussion.
4. The parties entered into an agreement for an assured tenancy in respect of the Property on 14<sup>th</sup> August 2017. The rent for the Property was £600 per month. The Respondent has not made any rental payments since the start of the tenancy. A Notice to Quit was served on the Respondent by the previous solicitors for the Applicant on 14<sup>th</sup> May 2018. The Notice to Quit was signed for by the Respondent on 24<sup>th</sup> May 2018.
5. A Form AT6 was served on the Respondent by the Applicant's solicitor on 14<sup>th</sup> September 2018. The sum outstanding at the date of serving the Form AT6 was £7,800. The sum outstanding at the date of lodging the Application was £8400.
6. Ms McCarthy said that the Respondent moved a family into the Property two weeks ago. The Applicant was notified by neighbours that two adults and four children were living there. No consent had been given by the Applicant. Neighbours reported that items were being thrown from the property windows. Parties have met and discussed matters. The Applicant believes that the Respondent and the family have now left the Property and that no one is living there at present, however, the keys to the Property have not been returned, and the Applicant is fearful that the Respondent may return to the Property. The Respondent has left belongings in the garden of the Property. Ms McCarthy moved the Tribunal to grant the order sought to ensure that the Applicant recovers possession of the Property. The relevant notices have been served on the Respondent and Ground 8 applies. Responding to questions from the Tribunal, Ms McCarthy said the Applicant was not aware of any benefit issues that may have contributed to the non-payment of rent. There has been no communication from the Respondent regarding benefits due or in payment.

## Findings in Fact

7. (i) The tenancy agreement between the parties is an Assured Tenancy.
- (ii) Notice to Quit was in proper form and had been served appropriately on 14<sup>th</sup> May 2018, giving the Respondent two months' notice. The Respondent did not remove from the Property at the expiration of the Notice. On expiration of the Notice to Quit, the tenancy agreement became a Statutory Assured Tenancy.
- (iii) The Form AT6, served under section 19 of the 1988 Act, was in proper form and had been served appropriately.
- (iv) The Respondent had not paid any rent lawfully due in terms of the tenancy agreement between the parties.
- (v) At the date of service of the Form AT6 and at the date of the hearing, at least three months' rent lawfully due from the Respondent was in arrears.
- (vi) Although the Respondent appears to have vacated the Property, she has not removed all of her belongings and she has retained the keys.

## Reasons for Decision

8. At the date of service of the Form AT6 and at the date of the hearing, at least three months' rent lawfully due from the Respondent was in arrears. Ground 8 of Schedule 5 of the 1988 Act applies and the Tribunal must order possession.

## Decision

9. The Tribunal makes an order for possession of the Property in favour of the Applicant.

## 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.**

H.Forbes

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Legal Member/Chair

15th January 2019  
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Date