



**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/18/3429

**Re: Property at 5 Swallow Brae, Ladywell, Livingstone, EH54 6GZ (“the
Property”)**

Parties:

**Mr Christopher McCall, Flat 3, 69 Shrewsbury Lane, Shooters Hill, London,
SE18 3JJ (“the Applicant”)**

**Mr Neil Landsberg, 5 Swallow Brae, Ladywell, Livingstone, EH54 6GZ (“the
Respondent”)**

Tribunal Members:

Nairn Young (Legal Member)

Decision

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

- Background

This is an application for an order for possession of the Property, which is let by the Applicant to the Respondent. It called for case management discussion at 2pm on 28 March 2019. The Applicant and Respondent were present in person.

- Findings in Fact

1. The Property is let by the Applicant to the Respondent in terms of a short assured tenancy agreement commencing 1 August 2016 (‘the tenancy agreement’). The tenancy agreement specifies that rent of £550 is payable on the first day of each month. By agreement between the parties on 4 December 2017, this date was changed to the fifteenth day of each month. The tenancy agreement provides that it may be brought to an end on, among

others, Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 ('Ground 8 of the Act').

2. On 23 November 2018, the Applicant served a notice in form AT6 on the Respondent, stating his intention to raise proceedings for recovery of possession of the Property no earlier than 10 December 2018, on the basis that Ground 8 of the Act was satisfied. At that date, the Respondent owed £1,550 in rent arrears. As at the date of the case management discussion, the rent arrears had increased to £2,880.

- Reasons for Decision

3. At the date of service of the form AT6, the Respondent did not owe at least three months rent arrears. Ground 8 of the Act is not therefore established. No other ground for possession was noted in the form AT6. The application should therefore be refused.

- Decision

Application refused.

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 N Young

Legal Member/Chair

28 MARCH 2019.

Date