



**Statement of Decision 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/17/0505**

**Re: Property at 2 Loan View, Lauder, Berwickshire, TD2 6TJ (“the Property”)**

**Parties:**

**Mr Alan Rogerson, Mrs Linda Rogerson, The Farmhouse, Burncastle Estate, Lauder, Berwickshire, TD2 6QX (“the Applicant”)**

**Mrs Lesley Johnston, 2 Loan View, Lauder, Berwickshire, TD2 6TJ (“the Respondent”)**

**Tribunal Members:**

**Yvonne McKenna (Legal Member)**

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**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for possession of the property be granted**

- **Background**  
The application is for an order for possession of the tenancy known as and forming 2 Loan View , Lauder, Berwickshire TD2 6TJ.  
An application was submitted to the Tribunal by the Applicants on the 18<sup>th</sup> December 2017 setting out that the Applicants seek possession of the tenancy under Section 18 , Schedule 5 grounds 8,11 and 12 of the Housing (Scotland ) Act 1988.

Documents lodged with the Tribunal were the Tenancy Agreement , the Notice to Quit , the AT6, confirmation of service of the Notices by Recorded Delivery a statement of rent due , the Section 11 Notice and accompanying email to the local authority intimating the notice.

The Tribunal fixed a Case Management Discussion and this was intimated to parties. The Respondent was told in writing by the Tribunal on 28<sup>th</sup> December

**Y McKenna**

2017 that written representations in response to the application required to be lodged by 15<sup>th</sup> January 2018. No responses have been received. The Respondent was also told that she required to attend the Case Management Hearing today and she was informed that the Tribunal could today make a decision on the application if the Tribunal has sufficient information and considers the procedure to have been fair.

- The Hearing took place in the absence of the Respondent today. She had telephoned the Tribunal Headquarters at approximately 8.30 am today stating that she was unwell and would not be in attendance. She indicated that she would send an e-mail. No e-mail was received and the Tribunal proceeded. The second named Applicant was present together with her solicitor Mrs. Claire Mullen. The Tribunal was provided with an up-to-date statement of the rent currently due. The rent outstanding amounts to £4160. No payments to account have been made by the Respondent since the Notices have been served on her.

- Findings in Fact;

1 The Applicants and the Respondent entered into a Tenancy Agreement dated 10<sup>th</sup> October 2016. The period of the lease is 6 months. The lease provides for two monthly renewals thereafter. The rent fixed is £520.

2 The Applicants served Notice on the Respondents on 21<sup>st</sup> August 2017 of their intention to raise proceedings for possession of the property under Schedule 5 grounds 8, 11 and 12 of the 1988 Act. Said Notice detailed that proceedings would not be raised before 15<sup>th</sup> December 2017. A Notice to Quit was served on 5<sup>th</sup> September 2017 indicating to the Respondent that she required to remove from the property before 15<sup>th</sup> December 2017.

3. At the date of service of the Notice the arrears due were £1560. At the date of the application they were £3640. As at today's date they are £4160. Accordingly both at the date of service of the notice under section 19 of the 1988 Act and as at today's date at least three months rent are lawfully due from the Respondents.

4. The Applicants are entitled to the order sought for repossession.

#### Reasons for Decision

The Tribunal proceeded on the basis of the written documents which were before it as detailed above and further representations were made by the Applicant's solicitor. She invited the Tribunal to grant the order sought. She said that the Notices had not been challenged. The grounds had been met and specifically Ground 8 was a mandatory ground for an eviction order. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

- Decision The order for eviction / possession is 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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Y McKenna

 Legal Member/Chair

11/2/18  
Date