



**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/18/0050**

**Re: Property at Flat 2L, 17 Morgan Street, Dundee, DD4 6QD (“the Property”)**

**Parties:**

**Mr Steven O'Donnell, Mrs Bridget O'Donnell, 11 Stuart Green, Edinburgh, EH12  
8YF; 11 Stuart Green, Edinburgh, Lothian, EH12 8YF (“the Applicant”)**

**Mr Alistair Brown, Flat 2L, 17 Morgan Street, Dundee, DD4 6QD (“the  
Respondent”)**

**Tribunal Members:**

**Colin Dunipace (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.**

- On 26 March 2018 The Tribunal conducted a Case Management Discussion in relation to the Application of Mr Steven and Mrs Bridget O'Donnell against Mr Alistair Brown in relation to an action in terms of section 18 of the Housing (Scotland) Act 1988 for recovery of possession of the property at Flat 2L, 17 Morgan Street, Dundee, DD4 6QD. The Application had been made on Grounds 8, 11 and 12 of Schedule 5 to the Housing (Scotland) Act 1988.
- The Application called by way of a Case Management Discussion in Menzieshill Community Centre on the above date. At the time the Applicant was represented by Ms Kirsty Morrison of Messrs TC Young, solicitors. The Respondent was not present or represented at the Discussion. In light of the foregoing the Tribunal required to consider the question of Service of the Application in terms of section 6 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017 and noted that lawful service had effected on the Respondent by Sheriff Officers on 22 February 2018. The

Tribunal noted also that the Respondent had not engaged with the Tribunal and that no explanation had been offered for his non-attendance and accordingly determined therefore that the Discussion could proceed in his absence. The Tribunal thereafter heard from Ms Morrison to the effect that the respondent had refused to engage with the Applicant to date and that the level of arrears now amounted to £2,340. Ms Morrison confirmed that no payments had been made by the Respondent since 12 September 2017, and that he had failed to engage with attempts made by the Applicant to engage with him in relation to payment of the outstanding arrears. The Applicant sought an Order for possession in terms of section 18 of the Housing (Scotland) Act 1988. The Applicant also sought that the Tribunal exercise its discretion in terms of section 17(4) of the aforementioned Regulations to dispense with the need for a Hearing and to issue an Order as sought.

- The Tribunal found the following matters to be proved as matters of fact:
  1. That the Applicants and the Respondents entered into a Short Assured Tenancy Agreement on 31 August 2017. In terms of this agreement the Respondent was due to pay to the Applicants a monthly payment of £390 due on the first day of each month.
  2. That the Respondent made one payment in the sum of £390 on 12 September 2017.
  3. That the Respondent has made no further payments to date to the Applicants.
  4. That the Applicants have sought to engage with the Respondent to discuss the question of payments to date and that the Respondent has failed to engage at all..
  5. That as at the date of the Case Management Discussion that the sum of £2340 remains outstanding by the Respondent.
- Having heard submissions from Ms Morrison at the Case Management Discussion I was satisfied that the factual position as set out in the Application had been established. I was also satisfied that given the lack of engagement to date by the Respondent that he was unlikely to do so again in the future. Given that the factual position as set out in Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 had been established I was satisfied that an Order for possession could properly be made.
- The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for possession of the Property under section 18 of the Housing (Scotland) Act 1988.

**A party may request the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for this decision within 14 days of the date of issue of this decision.**

## **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.

Colin Dunipace

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Legal Member/Chair

20 March 2018  
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Date