



**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/18/2137**

**Re: Property at Flat G/L, 2 Caird Terrace, Dundee, DD3 8BS (“the Property”)**

**Parties:**

**Ms Elaine Lawrence, 14 David Robertson Street, Dundee, DD3 7QY (“the Applicant”)**

**Miss Kara Elizabeth Clark, Flat G/L, 2 Caird Terrace, Dundee, DD3 8BS (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

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

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

**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**

**Background**

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for recovery of possession in terms of grounds 8, 11 and 12 of the Housing (Scotland) Act 1988.

2. The parties entered into a Short Assured Tenancy between 1<sup>st</sup> September 2012 until 31<sup>st</sup> August 2013. The rent payments of £475 per month were due on or before the 5<sup>th</sup> day of each month in advance.
3. The Tribunal had before it the following documents:
  - a) Application dated 10<sup>th</sup> August 2018 received by the Housing and Property Chamber on 15<sup>th</sup> August 2018.
  - b) Tenancy agreement between the parties signed 5<sup>th</sup> January 2015 with the commencement of the tenancy on 5<sup>th</sup> January 2015 for a 12 months period until 4<sup>th</sup> January 2016 and on a month to month basis thereafter.
  - c) Form AT5 signed by the parties on 5<sup>th</sup> January 2015.
  - d) Notice to Quit dated 21<sup>st</sup> May 2018 dated by Sheriff Officers 31<sup>st</sup> May 2018.
  - e) Section 33 Notice dated 21<sup>st</sup> May 2018 requiring vacant possession as at 4<sup>th</sup> August 2018.
  - f) Sheriff Officers execution of service for the Notice to Quit and Section 33 Notice dated 31<sup>st</sup> May 2018.
  - g) Section 11 Notice noting date of raising proceedings 9<sup>th</sup> August 2018.
  - h) Title deeds with reference ANG34824.
  - i) Sheriff Officer certificate of citation for documents pertaining to CMD on 25<sup>th</sup> October 2018 including date and time of the CMD. The certificate is dated 9<sup>th</sup> October 2018 and issued by letterbox delivery. The Sheriff Officer being satisfied that the Respondent resided at the Property.

### **Case Management Discussion**

4. The Tribunal held a Case Management Discussion ("CMD") on 25<sup>th</sup> October 2018 at Caledonia House, Dundee. The Applicant was not present but was represented by Mr Alan Smith from Sutherland Management. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. The Applicant had last heard from the Respondent approximately 1 month prior to the hearing by email. Mr Smith noted that there had been no issues with the Respondent as a tenant but that the Applicant was seeking to sell the Property. The Respondent has not leave the Property. She had contacted Dundee City Council but was advised that she could not be rehomed until she had an order for her eviction. The Tribunal was satisfied that all the documents had been appropriately served and there was no ground for discretion.

### **Findings in Fact**

5. The parties entered into a Short Assured Tenancy on 5<sup>th</sup> January 2015 with the commencement of the tenancy on 5<sup>th</sup> January 2015 for a 12 months period until 4<sup>th</sup> January 2016 and on a month to month basis thereafter. An AT5 was signed by both parties on the same date as the lease. The rent payments of £475 are due by the 3<sup>rd</sup> day of each month.

6. The Housing and Property Chamber received an Application on 15<sup>th</sup> August 2018.

### Reasons for Decision

7. The Tribunal was satisfied that there were no other issues of reasonableness before them and that the notices had been served in an appropriate manner and that a Short Assured Tenancy had been entered into by the parties. Given this the Tribunal was satisfied all appropriate paperwork had been served the Order for repossession was granted.

### Decision

8. The Applicant is entitled to for an Order of for recovery of possession.

### 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.

**Gabrielle Miller**

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Legal Member/Chair

\_\_\_\_\_  
Date

25 OCT 18

\*Insert or Delete as required