



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 18(1) of the Housing  
(Scotland) Act 1988 (Act)**

**Chamber Ref: FTS/HPC/EV/18/2414**

**Re: Property at 19 Kingseat Drive, Tillicoultry, FK13 6RE (“the Property”)**

**Parties:**

**Mr Michael Herrington, c/o Moore Marshall Solicitors, Falkirk Business Hub,  
45 Vicar Street, Falkirk, FK1 1LL (“the Applicant”)**

**Mr Douglas Allan, 19 Kingseat Drive, Tillicoultry, FK13 6RE (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (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 eviction and recovery of possession be granted.**

**Background**

This is an application for eviction and recovery of possession under section 18(1) of the Act and Rule 65 of the Procedure Rules. The Grounds for recovery of possession are Ground 8 of Schedule 5 to the Act, namely, that both at the date of service of the notice under section 19 of the Act and at the date of the Hearing at least 3 months’ rent lawfully due from the Respondent was in arrears.

The Tribunal had regard to the following documents:

1. Application received 20 September 2018 (as amended);
2. Short Assured Tenancy (**SAT**) Agreement commencing 10 October 2017;
3. AT6 dated 27 July 2018;
4. Execution of Service of AT6 by Sheriff Officers;
5. Section 11 Notice;
6. Statement of Rent Arrears;

7. Certificate of Execution of Service of Notification of CMD by Sheriff Officers dated 9 January 2019.

### **Case Management Discussion (CMD)**

The case called for a CMD on 25 January 2019. The Applicant was present and represented. The Respondent was not present or represented. The Tribunal were satisfied that the Respondent had notification of the CMD, the fact that the Tribunal could determine the matter in his absence if satisfied that it had sufficient information and it was fair to do so. This was by virtue of the Certificate of Execution of Service of Notification of CMD by Sheriff Officers dated 9 January 2019.

The Applicant advised that the current rent arrears were £4,500.00. This was in excess of 3 months' rent. In so far as the Applicant was aware the arrears were not due in any part to delay or failure to make payment if any relevant benefit.

The Tribunal so far as material made the following findings in fact:

1. The Parties entered in to a SAT commencing 10 October 2017;
2. As at the service of the AT6 more than 3 months' rent was in arrears;
3. As at the date of the CMD more than 3 months' rent was in arrears;
4. The arrears were not in any part due to delay or failure to make payment of any benefit in respect of the SAT.

The Tribunal was satisfied on the evidence that Ground 8 was made out. As such the Tribunal was satisfied that it could make a decision at this stage and it was fair to do so given the notification to the Respondent.

The Tribunal accordingly granted the order for eviction and recovery of possession.

The Applicant sought costs. The Tribunal considered the application for costs and refused it as the relevant test had not been satisfied. The Respondent had not sought to defend the application.

### **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.**

Alan Strain

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Legal Member/Chair

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Date

25 January 2019