

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/18/2796**

**Re: Property at Flat 2/1, 18 Exeter Drive, Glasgow, G11 7UX (“the Property”)**

**Parties:**

**Homebird Property, 6 Doune Crescent, Bishopbriggs, Glasgow, G64 3JG (“the Applicant”)**

**Ms Tracy Hudson, Flat 2/1, 18 Exeter Drive, Glasgow, G11 7UX (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Janine Green (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted and made an Order for Possession of the Property**

**Background**

By application, received by the Tribunal on 4 October 2018, the Applicant sought an Order for Possession of the Property in terms of Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Grounds for possession were Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act.

The application was accompanied by copies of a Short Assured Tenancy Agreement between the parties, commencing on 12 July 2014 at a rent of £500 per month, a Form AT6 Notice, dated 6 August 2018, advising the Respondent that proceedings would not be raised before 31 August 2018 and a Notice to Quit, dated 30 November 2017, requiring the Respondent to vacate the Property by 5 February 2018. The Tribunal also saw evidence that the Notice to Quit had been served on the Respondent by sheriff officer on 25 January 2018 and the Form AT6 had been delivered on 6 August 2018. The application was also accompanied by a statement of rent, showing arrears as at 1 December 2017 of £4,970 and Housing Benefit

payments between 30 October 2017 and 6 August 2018 of £4,615.20, benefit being paid at the rate of £461.52 every four weeks.

On 27 December 2018, the Tribunal advised the Parties of the date, time and venue for a hearing.

### **The Hearing**

A hearing took place at Glasgow Tribunals Centre on the afternoon of 17 January 2019. Mrs Doreen Watt and Mr Fergus Watt of Homebird Properties were in attendance and were represented by Ms Val West of Indigo Square Properties. The Respondent was also present at the hearing.

The Applicant's representative told the Tribunal that the Applicant had only learned earlier in the day of the hearing date and the Applicant confirmed that the Tribunal's letter of 27 December 2018 had not arrived. The Respondent confirmed that she had received the letter. The Applicant's representative advised the Tribunal that the Notice to Quit had, in the first instance, been sent by recorded delivery post, but had been returned by Royal Mail, undelivered and not called for. As she had not known about the hearing until earlier in the day and as it appeared that the Tribunal required to see the returned envelope, Ms West requested and was granted a short adjournment to enable her to return to her office to pick it up.

At the reconvened hearing, the Applicant's representative provided the Tribunal with an unopened letter, addressed to the Respondent. There was writing on it to confirm that delivery had been attempted on 21 December 2017 and a sticker confirming that, as at 20 December 2017, it had not been called for. The Tribunal opened the envelope and confirmed that it contained the Notice to Quit dated 30 November 2017.

The Applicant's representative told the Tribunal that the rent statement showed arrears at 12 December 2017 of £4,970, but that, following a visit to the Respondent, it had become apparent that she was in receipt of housing benefit, which she had not passed on the Applicant. Arrangements were made for housing benefit to be paid directly to the Applicant's representative and, taking those into account, the arrears at December 2017 were reduced to £3,970. Since then, receipt of the housing benefit had ensured that the arrears did not grow, but the sum of £3,970 remained outstanding. The Applicant understood that the Respondent was not in a position to pay off the arrears, so was not pursuing her for payment, but the Applicant did wish the Order for Possession.

### **Reasons for Decision**

The Tribunal was satisfied that the rent had been more than three months in arrears both at the date of service of the Form AT6 Notice and at the date of the hearing.

The Tribunal was also satisfied that a valid Notice to Quit had been served.

Accordingly, the requirements of Ground 8 of Schedule 5 to the 1988 Act had been met and, in terms of Section 18 of the 1988 Act, the Tribunal was bound to make the Order for Possession. Having made the Order under Ground 8, it was unnecessary for the Tribunal to consider the application under Grounds 11 and 12 of Schedule 5 to the 1988 Act.

### **Decision**

The Tribunal decided to grant the application and to make an Order for Possession of the Property.

## 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.

George Clark

Legal Member/Chair

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Date

17 January 2019