



**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/18/2823

**Re: Property at 4 Market Street, Haddington, East Lothian, EH41 3JL (“the
Property”)**

Parties:

**Mr Andrew Aitken, Scotsraig, East Linton, East Lothian, EH40 3DH (“the
Applicant”)**

**Mr Peter Little, 4 Market Street, Haddington, East Lothian, EH41 3JL (“the
Respondent”)**

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be decided without a hearing
and that it would grant the application. The Tribunal made an Order for
Possession of the Property under Section 18 of the Housing (Scotland) Act
1988**

By application, received by the Tribunal on 22 October 2018, the Applicant sought an Order for Possession of the Property under Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 (“the 1988 Act”). The application was accompanied by copies of a Short Assured Tenancy Agreement, commencing on 26 November 2016 at a rent of £440 per month and, if not ended by either party on 26 May 2017, continuing on a monthly basis until ended by either party. It was also accompanied by a Notice to Quit dated 18 September 2018 and a Form AT6 Notice dated 19 September 2018, with proof of personal service by sheriff officer of both Notices on the Respondent on 20 September 2018. The Applicant also provided the Tribunal with a Statement of Rent showing a balance outstanding as at October 2018 of £3,892, with no rent having been paid since December 2017. The Form AT6 Notice advised the Respondent that the Applicant was intending to raise proceedings for possession

under Ground 8 of Schedule 5 to the 1988 Act ("Ground 8") and that proceedings would not be raised before 8 October 2018, being the earliest date that proceedings could be raised under Section 19 of the 1988 Act.

By letter dated 21 November 2018, the Tribunal advised the Parties of the date, time and venue of a Case Management Discussion and the Respondent was invited to make written representations by 7 December 2018. The Respondent made no written representations to the Tribunal.

The Case Management Discussion

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the afternoon of 14 December 2018. The Applicant was represented by Callum Macleod of Garden Stirling Burnet, solicitors, 121 High Street, Tranent, East Lothian EH33 1LW. The Respondent was not present or represented at the Case Management Discussion.

The Applicant's representative told the Tribunal that he understood that no payments had been received from the Respondent since the date of the application.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Tribunal was of the view that it had before it all the information and documentation it required and determined that it would make a decision without a hearing.

Section 18(1) of the 1988 Act provides that the Tribunal shall not make an Order for Possession of a house let on an assured tenancy except on one or more of the Grounds set out in Schedule 5 to the Act and, by Section 18(3), if the Tribunal is satisfied that any of the Grounds in part I of Schedule 5 is established, the Tribunal shall make an Order for Possession. Ground 8 is one of the Grounds in Part I of Schedule 5 to the 1988 Act.

Ground 8 applies where, both at the date of the service of the notice under Section 19 of the Act (the Form AT6 Notice) and at the date of the hearing, at least three months' rent lawfully due from the tenant is in arrears.

The Tribunal was satisfied from the Statement of Rent that the requirements of Ground 8 had been met and that, in terms of Section 18 of the 1988 Act, the Tribunal was bound to make an Order for Possession of the Property.

Decision

The Tribunal determined that the application should be decided without a hearing, that it would grant the application and would 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.

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George Clark

Legal Member/Chair

14 December 2018

Date