



**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/18/2971**

**Re: Property at 1F4, 17 Dalgety Street, Edinburgh, EH7 5UN (“the Property”)**

**Parties:**

**Mr Valentino Volante, 6 Dalhousie Crescent, Dalkeith, EH22 3DP (“the Applicant”)**

**Mr Ian Keighren, 1F4, 17 Dalgety Street, Edinburgh, EH7 5UN (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**BACKGROUND**

1. By lease dated 24 April 2011 the Applicant let the Property to the Respondent;
2. A notice in terms of section 19 of Housing (Scotland) Act 1988 – commonly referred to as a Form AT6 – detailing the proposed ground of eviction (ground 15 of Schedule 5 to the Housing (Scotland) Act 1988 - anti social behaviour ground), was served on the Respondent, by sheriff officers, on 21 March 2018;
3. The Applicant presented an application to the Tribunal seeking an order for eviction in terms of Ground 15 of Schedule 5 to the Housing (Scotland) Act 1988. The Application was dated 6 June 2018 and was submitted on or after that date;

4. It would appear that due to an administrative error the application was not initially processed by the Tribunal, it being marked as received only on 5 November 2018;

## **THE CASE MANAGEMENT DISCUSSION**

5. The Applicant attended the Case Management Discussion. The Respondent did not. The Tribunal was in receipt of an execution of service by sheriff officers confirming that the place, date and time of the Case Management Discussion had been intimated to the Respondent, together with a copy of the case papers. In the circumstances the Tribunal, being satisfied in terms of Rule 24 of The First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the "FTT Rules") that the Respondent had received reasonable notice of the same determined that it was appropriate to proceed in accordance with Rule 29 of the FTT Rules;
6. The Applicant referred to an e mail he had received from Edinburgh Council, dated 30 May 2018, which had been submitted with his application. This confirmed the following:-
  - a) The Applicant attended a meeting with Edinburgh Council on 18 May 2018 in relation to anti-social behaviour at the Property;
  - b) The Council had corroborated proof of:-
    - i. Graffiti on the front door relating to "Ian", the first name of the Respondent;
    - ii. Visitors to the Property kicking in the front door of the tenement block on more than one occasion resulting in it being permanently damaged;
    - iii. A party in the early hours of Sunday 15 April 2018 resulting in urination in the common close by persons attending, cigarette ends and beer cans being left in the common close, noise in the common stairwell and other residents being frightened to leave their property;
    - iv. Noise throughout the night on 18 April 2018;
    - v. The Respondent shouting foul, threatening and abusive comments on 21 April 2018;
    - vi. Regular disturbances in the Property and in the common stairwell by the Applicant and others attending the Property;
    - vii. 21 separate calls to Police Scotland about incidents at the Property;
  - c) That if the Applicant failed to deal with the matter an anti-social behaviour order may be served upon him;
  - d) The matter was being referred to the Landlord Registration department of Edinburgh Council also;
7. The Applicant also referred the Tribunal to a further e mail received by him, from Edinburgh Council, dated 1 November 2018 advising of further complaints and 2 further calls to Police Scotland;
8. The Respondent's behaviour had still not improved, he remains in occupation of the Property and had advised the Applicant that he did not intend attending the Case Management Discussion;

## **FINDINGS IN FACT**

9. By lease dated 24 April 2011 the Applicant let the Property to the Respondent;
10. A notice in terms of section 19 of Housing (Scotland) Act 1988 – commonly referred to as a Form AT6 – detailing the proposed ground of eviction (ground 15 of Schedule 5 to the Housing (Scotland) Act 1988 - anti social behaviour ground), was served on the Respondent, by sheriff officers, on 21 March 2018
11. That the Respondent, and persons visiting the Property, have acted in an anti-social manner in relation to persons residing, visiting or otherwise engaging in lawful activity in the locality of the Property;
12. That the Respondent, and persons visiting the Property, have pursued a course of anti-social conduct in relation to persons residing, visiting or otherwise engaging in lawful activity in the locality of the Property

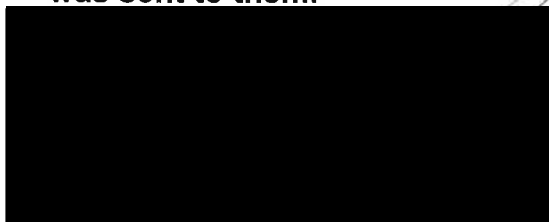
## **DECISION**

The Tribunal grants an order to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings forth and from the Property at 1F4, 17 Dalgety Street, Edinburgh, EH7 5UN and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

The order is not to be executed prior to 12 noon on 24 April 2019

### **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.**



**Virgil Crawford**  
**Legal Member/Chair**

**18 March 2019**

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**Date**