

**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/18/3445**

**Re: Property at 5 Templehall Place, Newbigging, Broughty Ferry, Dundee, DD5  
3UW (“the Property”)**

**Parties:**

**Mr Alan Davidson, Mrs Fiona Davidson, 73 High Street, Lochee, Dundee, DD2  
3AT (“the Applicants”)  
(Represented by Michael A Brown, Solicitor, Dundee)**

**Mr Justin Weston, 5 Templehall Place, Newbigging, Broughty Ferry, Dundee,  
DD5 3UW (“the Respondent”)**

**Tribunal Members:**

**Gillian Buchanan (Legal Member)**

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

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

- The parties entered into a Short Assured Tenancy Agreement on 30 November 2017.
- The term of the tenancy was agreed to be from 30 November 2017 to 1 December 2018 and month to month thereafter.
- The rent payable by the Respondent in terms of the Tenancy Agreement was agreed to be £900 per month payable in advance on the 30<sup>th</sup> day of each month.
- On 21 November 2018 the Applicants’ Representative served on the Respondent a Notice under Section 19 of the Housing (Scotland) Act 1988 of the Applicants’ intention to raise proceedings for possession of the Property on account of the rent being in arrears in a sum of £2,000 (“the Notice”).
- At the Case Management Discussion (“CMD”) the Applicants’ Representative accepted the reference in the Notice to Ground 8 of Schedule 5 of the 1988

Act to be erroneous, there not then being a total of 3 months rent arrears or more due by the Respondent.

- Subsequent to service of the Notice the rent arrears have increased and as at the date of the application to the Tribunal stood at £2,900. The arrears have increased further thereafter.
- The Applicants' Representative advised the Tribunal that the Respondent has vacated the Property.
- The Tribunal was satisfied that the application should be heard in the absence of the Respondent, due notice of the CMD having been given to the Respondent.
- The Tribunal was satisfied that the Respondent had persistently delayed in paying rent lawfully due in terms of Ground 11 of Schedule 5 of the 1988 Act and that some rent is due in terms of Ground 12 of Schedule 5 of the 1988 Act both at the date of commencement of these proceedings and as the date of service of the Notice.
- The Tribunal was satisfied that it is reasonable to grant an order evicting the Respondent from the Property and resolved to do so.
- The Tribunal observed that notwithstanding the Tenancy Agreement being in the joint names of the Applicants the title to the Property is in the name of the First Applicant alone, namely Mr Alan Davidson, and made an order in his favour allowing him to recover 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.

Gillian Buchanan

  
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Legal Member/Chair

26/2/19  
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Date