

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



**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/18/3111**

**Re: Property at Flat 1/1, 76 Sinclair Drive, Battlefield, Glasgow, G42 9PY (“the Property”)**

**Parties:**

**Mr Waleed Shamki, 32 Lancelot Crescent, Wembley, HA0 2AY (“the Applicant”)**

**Mr Dahej Kassm, Mrs Mariam Kassm, Flat 1/1, 76 Sinclair Drive, Battlefield, Glasgow, G42 9PY; Flat 1/1, 76 Sinclair Drive, Battlefield, Glasgow, G42 9PY (“the Respondent”)**

**Tribunal Members:**

**Andrew Cowan (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Application dated 7<sup>th</sup> November 2018 should be dismissed**

This application was raised under Section 18 of the Housing Scotland Act 1988 and Rule 65 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.

At a Case Management Discussion (“CMD”) held on 18<sup>th</sup> March 2019 the Tribunal determined to fix a further CMD to allow parties to lodge certain further documentation as directed by the Tribunal.

The next CMD was arranged for 29<sup>th</sup> April 2019. That CMD was discharged, on the request of the Applicant, as the Applicant had been informed that the Tenant intended to vacate the property on 1<sup>st</sup> May 2019 and “there was little merit in the landlord incurring additional costs in attending a CMD”.

A further CMD was arranged for 11<sup>th</sup> June 2019. By email dated 15<sup>th</sup> May 2019 the Tribunal requested the Applicant to confirm whether the Tenant was still in occupation and whether the application was to proceed.

No response was received from the Applicants until an email was received on 1<sup>st</sup> June 2019. In that email the Applicant's Representative confirmed that the Tenant had left the property on 1<sup>st</sup> May 2019.

In the same email the Applicant's Representative requested that the CMD on 11<sup>th</sup> June 2019 should be discharged and the matter "placed on hold" to allow the Applicant the opportunity to consider the best manner to recover alleged rent arrears due by the Respondent.

The Applicant's Representative further indicated that they would not be attending the CMD on 11<sup>th</sup> June 2019 as the representative was on annual leave,

Due to the late intimation, no decision in relation to the Applicant's motion to discharge the CMD fixed for 11<sup>th</sup> June 2019 was made by the Tribunal

The CMD proceeded on 11<sup>th</sup> June 2019. The CMD was attended by the Respondent's representative, Ms Sally Mair. There was no appearance made by the Applicant or their representative.

There is no application before the Tribunal which seeks any order for payment in respect of any rent arrears. It is entirely inappropriate for the Applicant's Representative to seek to put matters "on hold" whilst this is considered by them. The Tribunal is not a clearing house for the Applicant's issues

The only order sought in terms of the application was an eviction order. As the Tenants were no longer occupying the property the Tribunal determined that an order for eviction was unnecessary (as there was no longer a lease between the parties and the Landlord had already gained possession of the property) and accordingly dismissed the application for that order.

### **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.**

A Cowan

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Legal Member/Chair

11/6/19  
Date