

**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(1) of the Housing (Scotland) Act 1988 (Act)**

**Chamber Ref: FTS/HPC/EV/18/2781**

**Re: Property at 1 Buchanan Crescent, Livingston, EH54 7EE (“the Property”)**

**Parties:**

**Mr Mohammad Adeel Arshad, 6 Hamilton Way, East Whitburn, Bathgate, EH74 8RA (“the Applicant”)**

**Mr Alan Troup, 1 Buchanan Crescent, Livingston, EH54 7EE (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (Legal Member) and Ann Moore (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction and recovery of possession be granted.**

**Background**

This is an application under section 18(1) of the Act and Rule 65 of the Procedure Rules for eviction and recovery of possession on the basis of grounds 8, 11 and 12 of Schedule 5 to the Act.

The following documents were considered by the Tribunal:

1. Application received 10 October 2018;
2. Tenancy Agreement dated 28 January 2013;
3. AT6 dated 19 September 2018 setting out grounds 8, 11 and 12;
4. Certificate of Service by Sheriff Officers of AT6 dated 19 September 2018;
5. Section 11 Notice;
6. Schedule of Rent Arrears at 1 October 2018;
7. Updated Schedule of Rent Arrears dated 8 February 2019 with application to amend;

8. Certificate of Service by Sheriff Officers of notification of Hearing;
9. Letter from Tribunal service to Respondent enclosing 7 above dated 8 February 2019.

## **Hearing**

The case called for a Hearing on 15 February 2019. The Applicant was present and represented by Mr Gardiner, Solicitor. The Respondent did not appear and was not represented.

The Tribunal were satisfied that service of notification of the Hearing had been made by Sheriff Officer on the Respondent. The Tribunal were also satisfied that the application to amend, submissions and updated arrears had been made on the Respondent by letter of 8 February 2019 from the Tribunal.

The Tribunal decided that it was fair and reasonable to proceed in the circumstances.

The Tribunal then heard evidence from the Applicant and in so far as material made the following findings in fact:

1. The Parties let the subjects under an assured tenancy commencing 28 November 2013;
2. The Monthly rent was £750;
3. As at the date of service of the AT6 the rental arrears exceeded 3 months' rent;
4. As at the date of the Hearing the rental arrears were £9,000 which was in excess of 3 months' rent;
5. The arrears were in no part due to any delay or failure in payment of a relevant benefit.

The Tribunal granted the Applicant's motion to amend the amount of rent arrears to £9,000.

The Tribunal then addressed the relevant tests for Ground 8 to be satisfied. In particular whether at the date of service of the AT6 and at the date of the Hearing at least 3 months' rent was outstanding. The Tribunal determined that the tests were satisfied.

It then fell to the Tribunal to determine whether the arrears were in any part due to the failure or delay in payment of a relevant benefit. The Tribunal determined that it was not.

Ground 8 is a mandatory Ground in which the Tribunal has no discretion. The Tribunal were accordingly satisfied that the terms of Ground 8 were satisfied and that the order should be granted as sought.

In granting the order the Tribunal were satisfied that the decision was in accordance with the overriding objective. The decision of the Tribunal was unanimous.

## 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 Strain

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Legal Member/Chair

15/2/19.  
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Date