



**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**

**Chamber Ref: FTS/HPC/EV/19/0960**

**Re: Property at 4 Tay Court, Alloa, FK10 1QD (“the Property”)**

**Parties:**

**Mr Alistair Turner, 2 Hoggan Way, West James Street, Alva, FK12 5GG (“the Applicant”)**

**Miss Samantha Gray, 4 Tay Court, Alloa, FK10 1QD (“the Respondent”)**

**Tribunal Members:**

**Colin Dunipace (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession shall be made in respect of the property.**

**Background**

**This matter concerns an Application for possession of the subject property in terms of section 18(1) of the aforementioned Act. The Application was lodged on behalf of the Applicant by Messrs Jardine Donaldson on 25 March 2019. With the Application was also lodged a copy of the tenancy agreement; copy forms AT5 & AT6; copy of the notice to the local authority under section 11 of the Homelessness etc (Scotland) Act 2003 ; copy rent account showing arrears; and Evidence of Service of AT6 Notice. The Application was raised in terms of Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The matter called before me as a Case Management Discussion in Wallace House, Maxwell Place, Stirling, FK8 1JU on 23 May 2019. The Applicant was represented at this Discussion by Mr Cullens of Messrs Jardine Donaldson, Solicitors. The Respondent was neither present nor represented. I was satisfied that intimation of the Discussion had been sent by the Tribunal to the Respondents on 18 March 2019, and accordingly I**

was satisfied that Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017 had been complied with thereafter determining that the Discussion might proceed in their absence in terms of Rule 29 of the aforementioned Regulations.

### **Case Management Discussion**

The matter accordingly called before me on 23 May 2019. As indicated above at this Discussion the Applicant was represented by Mr Cullens, but the Respondent was neither present nor represented. On behalf of the Applicant Mr Cullens indicated that the Respondent had failed to meet the payments of rent which had been due in terms of the lease dated 29 April 2017.

Mr Cullens provided an up to date rent statement and indicated that the outstanding arrears had continued to rise and that the arrears of rent now stood at £3,484.18. The last full payment of rent had been made on 31 October 2018, and since then the Respondent had made three further payments in the sum of £80 on 14 January 2019; in the sum of £160 on 8 February 2019; and in the sum of £80 on 2 May 2019. It was understood now that the Respondent had vacated the property.

Having heard from the Applicant's representative I was invited to make an order for possession on the basis that Ground 8 of Schedule 5 of the Housing (Scotland) Act 1988 had been met, that is on the basis that the arrears of rent were in excess of three month's rent as at the date on which the notice of intention to seek possession had been served and as at the date of the Case Management Discussion.

### **Findings in Fact**

- 1. The parties entered into a Short Assured Tenancy on 29 April 2017. The original Tenancy was due to expire on 29 October 2017. In terms of this rental agreement the amount of rent due was £500 per calendar month. On 16 February 2018 the amount of rent was reduced to £450 per calendar month.**
- 2. Notice of intention to raise proceedings was served on the Respondent in terms of section 19 of the Housing (Scotland) Act 1988 on 28 February 2019.**
- 3. That the Respondent did not maintain payments of rent due in respect of this tenancy agreement and that the arrears now due amount to £3,484.18.**

## Statement of Reasons

The Applicant's representative produced a rent arrears statement to the Tribunal on 23 May 2019 showing the extent of the outstanding arrears. These arrears are in excess of three months rental in relation to the property.

In terms of Section 18 of the Housing (Scotland) Act 1988 the Tribunal is to issue an Order against Respondents if it finds that one of the grounds mentioned in Schedule 5 have been established. Ground 8 is a mandatory Ground of said Schedule which provides that an Order should be made if both at the date of the service of the notice under section 19 of this Act relating to the proceedings for possession and at the date of the hearing, at least three month's rent lawfully due from the tenant is in arrears.

I am satisfied that in this Application that the Applicant has established this Ground, and as such is entitled to the Order as sought. For this reason I am satisfied that the Order sought should be granted.

## 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.

**C Dunipace**

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Legal Member 

23/5/19  
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Date