

**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/21/0937

**Re: Property at 11 Arthur View Crescent, Danderhall, Dalkeith, EH22 1NG (“the
Property”)**

Parties:

Mr Antonio Crolla, 106 High Street, Dalkeith, EH22 1AU (“the Applicant”)

**Mrs Eileen Lindsay, 11 Arthur View Crescent, Danderhall, Dalkeith, EH22 1NG
 (“the Respondent”)**

Tribunal Members:

Nairn Young (Legal Member) and Leslie Forrest (Ordinary Member)

Decision (in absence of the Respondent)

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

- Background
1. This is an application for an order for possession of the Property, which is let to the Respondent by the Applicant under an assured tenancy. It called for a case management discussion (‘CMD’) at 10am on 25 August 2021, by teleconference. The Applicant was represented on the call by Mrs Jacqueline Barr of AM Letting Ltd.. The Respondent did not call in to the teleconference and was not represented. The commencement of the CMD was delayed by 10 minutes to allow for any technical difficulty, but there remained no contact from the Respondent.

2. This CMD was adjourned from 21 June 2021. The Respondent appeared in person at that earlier calling and admitted that the arrears that found this application were due to the Applicant. The adjournment was to give time for the Applicant to observe fully the requirements of the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 and for the Respondent to engage with debt advice and other supports available. She was warned that if she did not take reasonable steps to access advice and subsequently to address the issue of the outstanding rent with the Applicant, she would be at risk of an order for possession being granted at the next calling of the CMD. The details of this calling were served on her on 21 July 2021.

3. The Tribunal was satisfied that the Respondent was aware of the calling and had chosen not to take part in the teleconference. It considered that the CMD should proceed in her absence. The prejudice to the Respondent in proceeding to determine the matter in her absence was minimal, given that she had substantially presented her position at the previous calling. A further adjournment would incur further delay and cost for the Applicant which would outweigh any impact on the Respondent.

- Findings in Fact

4. The Respondent lets the Property from the Applicant in terms of an assured tenancy, with an entry date of 26 November 2011.

5. The initial term of that tenancy was for 6 months, to 25 May 2012.

6. The tenancy was extended by 6-monthly periods since, by tacit relocation, until being terminated by notice given by the landlord.

7. Rent of £650 per month was initially due on the date of entry and on the 26th day of each month thereafter.

8. The monthly rent was raised to £750 per month from August 2019.

9. Notice to quit and a form AT6 were served on the Respondent by sheriff officers on 8 September 2020.
10. The ground relied on in the form AT6 was ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 ('the Act').
11. At the time of service of the form AT6, the Respondent was in arrears of rent of £8,469.83.
12. On 5 October 2020, the Tribunal granted the Applicant an order for payment against the Respondent in relation to unpaid rent, to the sum of £8,919.83 (Tribunal ref: FTS/HPC/CV/20/1317).
13. The Respondent paid only £200 towards her rent in October and, again, in November 2020.
14. The contractual tenancy was terminated on 25 November 2020.
15. The Respondent has continued to occupy the Property in terms of the statutory tenancy formed on termination of her contractual tenancy.
16. Since December 2020, the Respondent has been in receipt of full housing benefit.
17. The Respondent has not made any payment towards the arrears, with the result that these now stand at £10,019.83.
18. The arrears are not to any extent related to a failure or delay in payment of a relevant benefit.
19. The Respondent occupies the Property with her adult daughter and son, aged 14.

20. The Respondent has offered to make payment of £50 per month towards the arrears, which would take in excess of 16 years to clear them in full.

21. The Applicant forwarded all information required by the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 to the Respondent on 22 June 2021.

22. The Respondent has not contacted the Applicant since then.

- Reasons for Decision

23. Both at the date of the service of the form AT6 and at the date of the CMD, more than three months rent lawfully due from the tenant was in arrears. Ground 12 is consequently established. The Tribunal is therefore required to consider whether the granting of an order for possession is reasonable in the circumstances.

24. The Tribunal is satisfied that it is. The arrears are of a significant amount and the Respondent has not shown any ability to address them. She has been directed to access support in that regard but has not shown any evidence of having taken advantage of that support. She has not engaged with the Applicant to deal with the situation.

- Decision

Order for Possession 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.

Nairn Young

31 August 2021

Legal Member/Chair

Date