



**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/21/1438**

**Re: Property at Flat 02, 48 Bank Street, Seedhill, Paisley, PA1 1LR (“the Property”)**

**Parties:**

**Mrs Dorothy McDonald, 76 Beechlands Drive, Clarkston, Glasgow, G76 7UX (“the Applicant”)**

**Mr Craig Dickinson, Flat 02, 48 Bank Street, Seedhill, Paisley, PA1 1LR (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Linda Reid (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 recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated 9<sup>th</sup> July 2021. The application was submitted under Rule 65 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to grounds 8, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988.
2. The application included:-
  - a. Short Assured Tenancy Agreement started 6<sup>th</sup> October 2017 signed 14<sup>th</sup> March 2018;
  - b. Form AT5 signed by the parties on 8<sup>th</sup> March 2018;

- c. Notice to Quit dated 1<sup>st</sup> December 2020 with sheriff officer certificate of service by letter box service on 3<sup>rd</sup> December 2021 (this was also for the AT6);
  - d. AT6 dated 1<sup>st</sup> December 2020 raising grounds 8, 11 and 12;
  - e. Section 11 Notice noting date of raising proceedings 9<sup>th</sup> July 2021;
  - f. Pre action requirement letters.
3. On 12<sup>th</sup> August 2021, all parties were written to with the date for the Case Management Discussion (“CMD”) of 15<sup>th</sup> September 2021 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 2<sup>nd</sup> September 2021.
  4. On 16<sup>th</sup> August 2021, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service and first class post. This was evidenced by Certificate of Service dated 16<sup>th</sup> August 2021.

#### The Case Management Discussion

5. A CMD was held on 15<sup>th</sup> September 2021 at 2pm by teleconferencing. The Applicant represented herself. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the hearing.
6. The Applicant told the Tribunal that the arrears have continued to accrue by the rent charge each month. There have been no further payments other than those detailed on the rent account lodged with the Housing and Property Chamber.
7. The Applicant was not able to advise regarding reasonableness. The Tribunal adjourned briefly to allow her to contact her letting agent. On returning to the CMD, the Applicant informed the Tribunal that numerous attempts had been made to contact the Respondent. This was done in various ways including letter and email. The Respondent did not engage in a meaningful way. The correspondence included information regarding covid support, a local law centre, money advice help sources and government support. The Respondent had responded that they should “take him to the Tribunal”. The Respondent had not indicated that he was eligible for Universal Credit and no monies came from the DWP.
8. The Tribunal was satisfied that there were no issues of reasonableness.
9. The Tribunal noted that although an AT5 has been lodged it was not relevant as it was signed after the lease started. This means that the tenancy is an assured tenancy rather than a short assured tenancy. It does not invalidate the proceedings as all the relevant paperwork has been lodged.

### Findings and reason for decision

10. The parties entered into an assured tenancy on 6<sup>th</sup> October 2017. The rent payments are due on 6<sup>th</sup> day of each month. The rent charge is £375 per month.
11. The Housing and Property Chamber received an Application on 9<sup>th</sup> July 2021.
12. The Respondent persistently failed to pay his rent charge of £375 per month.
13. There are no outstanding Housing Benefit issues.
14. The arrears detailed to the Housing and Property Chamber total £6094. The arrears have continued to increase month by month since this amount was lodged.

### Reasons for Decision

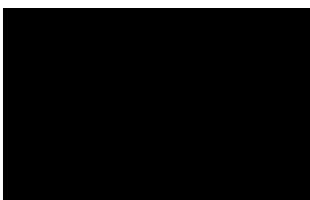
15. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondent had persistently not paid the rent and was in arrears. As a consequence the Applicant was entitled to be granted the Order for repossession of the Property.

### Decision

16. The Respondent has outstanding rent arrears amounting to more than three months at the date to the Notice to Quit and at the date of the CMD. The Respondent has continued to be in arrears in excess of three months rent payments. He has not attempted to address the arrears. The Tribunal found that grounds 8, 11 and 12 had been established and granted an order for repossession of the Property in favour of the Applicant.

### **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.**



**Gaby Miller**  
\_\_\_\_\_  
**Legal Member/Chair**

**15<sup>th</sup> September 2021**  
\_\_\_\_\_  
**Date**