



**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 (“The Act”)**

**Chamber Ref: FTS/HPC/EV/22/1900**

**Re: Property at 51/1 Pittville Street, Edinburgh, EH15 2BX (“the Property”)**

**Parties:**

**Places for people scotland ltd, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)**

**Mrs Sasha Callaghan, UNKNOWN, UNKNOWN (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Mike Scott (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.**

**Background**

The Applicant seeks an Eviction Order under Section 18 of the Act. In terms of s19 of the Act, the Applicant served a Form AT6 under Grounds, 8, 11 and 12 of Schedule 5 of the Act on the Respondent on 16 May 2022. In terms of that Notice, proceedings may not have been raised before 31 May 2022. Evidence in the form of rent statements has been produced which purports to establish those Grounds as having been established as at the date of service of the Form AT6. No Notice to Quit was required due to adequate provision in the tenancy agreement as to the grounds on which the tenancy may be brought to an end.

The Applicant has produced evidence of having complied with *The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020*. The Applicant has also produced evidence of having complied with s 11 of the *Homelessness (etc) (Scotland) Act 2003*.

### **The Case Management Discussion.**

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 6 October 2022. The Application called alongside a related Application in respect of a Payment Order between the parties. The Applicant was represented by Ms Mullen of TC Young Solicitors.

Sheriff Officers had attempted to serve the Application and information about the conference calls on the Respondent but reported that they could not effect service as the Respondent had vacated the Property and her whereabouts could not be ascertained.

Permission for service by Advertisement had thereafter been granted and competently carried out meaning that service had been properly effected as per Rule 6A of the *Tribunal Rules The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2018*. ("The Rules")

The Tribunal noted that in the related case in respect of a Payment Order, the Applicant had subsequently sought to amend the sum claimed under the terms of Rule 14A of the Rules. In so doing they had sent a letter to the Property with the amended sum by Recorded Delivery. This letter had in fact been signed for by someone with the name "Callaghan".

The Tribunal discussed this matter with Ms Mullen and adjourned to discuss whether the Tribunal was content to proceed in the absence of the Respondent.

The Tribunal noted that Rule 6A had been competently and properly engaged on account of the very clear findings of the Sheriff Officers originally instructed to effect service. The fact that someone in the Property happened to sign for a document with the name Callaghan was certainly unusual – but did not appear to provide comprehensive evidence of the current address of the Respondent.

Rule 6A (4) does not appear to oblige the Tribunal to order reservice of the Application in these circumstances. There was also no comprehensive basis on which to simply dismiss the previous findings of the Sheriff Officers.

The Tribunal decided to proceed in the absence of the Respondent on the basis that the Application had been competently served. The Tribunal did however decide that the outcome of the Tribunal should also be intimated on the Respondent at the Property and will make a Direction to that effect. The Tribunal considered that this would at the very

least provide the Respondent with information about the decision and a means therefore of applying for recall should there in fact be in explanation that contradicts the original findings of the Sheriff Officers.

Having addressed this matter and having thereafter discussed the Application with Ms Mullen, The Tribunal adjourned to consider matters. Having done so, the Tribunal made the following findings in fact.

### **Findings in Fact**

- I. *The parties entered into a short assured tenancy agreement that commenced on 12 June 2006;*
- II. *The Applicant is the landlord in respect of that tenancy and the Respondent is the tenant;*
- III. *The current contractual monthly rent is £931.67, having been increased from £878.26 in April 2022;*
- IV. *The Applicant competently served form AT6 on the Respondent on 16 May 2022 on the basis of Grounds 8,11 and 12 of Schedule 5 of the Act;*
- V. *At that date, the relevant Grounds relied upon were established;*
- VI. *The Applicant has complied with The Rent Arrears Pre-Action Requirements (Coronavirus` ) (Scotland) Regulations 2020;*
- VII. *The Applicant has complied with the terms of s 11 of the Homelessness (etc) (Scotland) Act 2003;*
- VIII. *As at today's date, the sum of £27,641.51 is lawfully owed as arrears of rent by the Respondent to the Applicant;*
- IX. *The Grounds of eviction relied upon in the Form AT6 are established as at today's date;*
- X. *The Respondent is thought to have vacated the Property and to have previously lived there with two adult children;*
- XI. *Given what is known about the circumstances of the case and the level of the arrears owed, it is reasonable that an Eviction Order is made.*

**Decision.**

Having made the above findings in fact, the Tribunal granted the Application and made an Eviction 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.

**Andrew McLaughlin**

06/10/2022

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**Legal Member/Chair**

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**Date**