



**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/22/2355**

**Re: 41 Coronation Way, Montrose, Angus DD10 9DW ("Property")**

**Parties:**

Tarragon Properties Ltd, 62 New Wynd, Montrose, Angus DD10 8RF ("Applicant")

MML Legal, Meadowplace Building, Bell Street, Dundee DD1 1EJ ("Applicant's Representative")

Andrew Robbie, 41 Coronation Way, Montrose, Angus DD10 9DW ("Respondent")

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Leslie Forrest (Ordinary 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 of the Property should be made in terms of section 18 of the Housing (Scotland) Act 1988.**

**Background**

The Applicant sought recovery of possession of the Property in terms of Section 18 of the Housing (Scotland) Act 1988 ("1988 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement and form AT5 dated 14 December 2016; an AT6 dated 4 May 2022; Notice to Quit from the Applicant to the Respondent dated 4 May 2022; royal mail proof of delivery dated 5 May 2022; affidavit of Glen Steer of the Applicant dated 31 August 2022 stating that the notice to quit was sent by recorded delivery post and was also hand delivered; statement of rent arrears; letter from the Applicant to the Respondent dated 4 May 2022 and undated communication regarding rent arrears as at 24 January 2022; copy letter from the Applicant to the Respondent dated 20 July 2021 regarding an increase in rent with effect from 14 October 2022; Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 14 July 2022 and a certificate of service

by sheriff officers evidencing service of the Application on the Respondent on 21 December 2022.

### **Case Management Discussion**

A case management discussion took place before the Tribunal on 15 February 2023 by conference call. The Applicant was represented by Jay Lawson of the Applicant's Representative. There was no appearance on behalf of the Respondent. In advance of the CMD the Applicant's Representative had clarified with Mr Steer that the AT6 was delivered along with the notice to quit. The Applicant's Representative also lodged an updated statement of rent arrears showing arrears of £2216.12. Mr Lawson told the Tribunal that as far as the Applicant was aware, the Respondent lived in the Property alone. They did not know whether or not he was in employment. Since July 2022 £350 per month was being paid towards the rent via universal credit. Mr Lawson said that the Respondent had not communicated with the Applicant for months. Mr Lawson said that the Applicant owned a number of properties and also managed properties on behalf of other landlords.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement for the Property dated 14 December 2016.
2. The period of the Lease was from 14 December 2016 to 14 June 2017 and month to month thereafter.
3. The rent in terms of the Tenancy Agreement was £350 per month and increased to £360 per month with effect from 14 October 2021.
4. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
5. A Form AT6 dated 4 May 2022 was served to the Respondent on 5 May 2022.
6. A notice to quit dated 4 May 2022 was served on the Respondent on 5 May 2022.
7. The Applicant sought recovery of possession of the Property on Grounds 8, 11 and 12.
8. The Respondent had failed to make payment of rent due in full. The total outstanding at the date of service of the AT6 was £1257.83.

9. At the date of service of the AT6 and at the date of making this Application there was at least 3 months' rent lawfully due in arrears. The basis for possession set out in ground 8 of schedule 5 to the 1988 Act was established.
10. The Respondent has persistently delayed paying rent which has become lawfully due. The basis for possession set out in ground 11 of schedule 5 to the 1988 Act was established.
11. Some rent lawfully due from the Respondent was unpaid on the date on which proceedings for possession were begun and was in arrears at the date of service of the AT6. The basis for possession set out in ground 12 of schedule 5 to the 1988 Act was established.
12. Notice of the date of the hearing had been given to the Respondent by sheriff officer on 21 December 2022.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 18 of the 1988 Act. The basis for possession set out in grounds 8, 11 and 12 of schedule 5 to the 1988 Act had been established. In the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an order for possession of the Property.

### **Decision**

The Tribunal determined to make an Order for possession of the Property.

### **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.**

# Joan Devine

**Legal Member**

**Date: 15 February 2023**