



**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 (Act)**

**Chamber Ref: FTS/HPC/EV/20/1153**

**Re: Property at 2 The Studio, Dundrennan, DG6 4QH (“the Property”)**

**Parties:**

**Mr Mark Hutton, Mrs Susan Hutton, 18 Fergus Road, Kirkcudbright, DG6 4HN (“the Applicant”)**

**Tracey McClymont, 2 The Studio, Dundrennan, DG6 4QH (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction and recovery of possession be granted.**

**Background**

This is an application under section 18(1) of the Act and Rule 65 of the Procedure Rules for eviction and recovery of possession on the basis of grounds 8, 11 and 12 of Schedule 5 to the Act.

The following documents were considered by the Tribunal:

1. Application received 6 May 2020;
2. AT5 dated 24 April 2015;
3. Short Assured Tenancy Agreement (**SAT**) dated 24 April 2015;
4. AT6 dated 13 March 2020 setting out grounds 8, 11 and 12;
5. Notice to Quit dated 18 March 2020;
6. Certificate of Service by Sheriff Officers of AT6 and Notice to Quit dated 18 March 2020;
7. Section 11 Notice;

8. Schedule of Rent Arrears as at 1 April 2020;
9. Email of 5 May 2020 to Local Authority enclosing section 11 Notice;
10. Sheriff Officer Certificate of Service of Tribunal Notification of the CMD on the Respondent dated 17 July 2020.

### **Case Management Discussion (CMD)**

The case called for a CMD by conference call on 14 July 2020. The Applicants participated and were not represented. The Respondent did not participate and was not represented.

The Tribunal were satisfied that service of notification of the CMD had been made by the Tribunal Administration on the Respondent. The Respondent accordingly had notice that the Tribunal could proceed and determine matters in his absence if it considered that it had sufficient information to do so and the procedure was fair.

The Tribunal decided that it was fair and reasonable to proceed in the circumstances.

The Tribunal then considered the documentary evidence it had received from the Applicant and in so far as material made the following findings in fact:

1. The Parties let the subjects under an SAT dated 24 April 2015;
2. The Monthly rent was £425;
3. As at the date of service of the AT6 the rental arrears were £4,667.69 which exceeded 3 months' rent;
4. As at the date of the CMD the rental arrears were £6,792.69 which was in excess of 3 months' rent;
5. The arrears were in no part due to any delay or failure in payment of a relevant benefit.

The Tribunal considered the relevant tests for Ground 8 to be satisfied. In particular whether at the date of service of the AT6 and at the date of the Hearing at least 3 months' rent was outstanding. The Tribunal determined that the tests were satisfied.

It then fell to the Tribunal to determine whether the arrears were in any part due to the failure or delay in payment of a relevant benefit. The Tribunal determined that it was not.

Ground 8 is a mandatory Ground in which the Tribunal has no discretion. The Tribunal was accordingly satisfied that the terms of Ground 8 were satisfied and that the order should be granted as sought.

The Tribunal did not require to make any findings with regard to the remaining Grounds given its determination with regard to Ground 8.

In granting the order the Tribunal was satisfied that the decision was in accordance with the overriding objective.

## 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.

Alan Strain

14 August 2020

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Legal Member/Chair

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Date