

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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**

**Chamber Ref: FTS/HPC/EV/20/2503**

**Re: Property at 35 Restalrig Road, Edinburgh, EH6 8BD (“the Property”)**

**Parties:**

**Ms Gina Linda Cortellessa, 3A Jordan Lane, Edinburgh, EH10 4RB (“the Applicant”)**

**Mrs Marion Thomson, 35 Restalrig Road, Edinburgh, EH6 8BD (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member)**

**Decision**

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

**Background**

This Application called for a Case Management Discussion by conference call at 2 pm on 11 March 2021. The Applicant was present and represented by Ms Rhona Ferguson. The Respondent was personally present. Both parties confirmed that they were happy to proceed and there was no need for any delay. The matter called alongside the related matter of FTS/HPC/CV/20/2508 which related to a Payment Order.

**Preliminary Matter**

In this Application, the Applicant seeks an Eviction Order in respect of Grounds 8 of Schedule 5 of the Housing (Scotland) Act 1988. An AT6 had been served on the Respondent on 3 June 2020. The effect of s4 (c) (i) of Schedule 1 of the Coronavirus

(Scotland) Act 2020 is to require that the notice period to be provided to the tenant in such a notice before proceedings may be raised is now at least six months.

In this instance, the AT6 specified a date of 2 December 2020 which fell short of the required six-month notice period. The Tribunal therefore considered that the terms of s 4 of the Coronavirus (Scotland) Act 2020 had not been complied with and insufficient notice had been given to the Respondent of the intention to raise proceedings.

### **Decision.**

Having noted that the AT6 that underpinned the Application was deficient, the Tribunal refused the Application.

### **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**

11/03/21

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Legal Member/Chair

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Date