



**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/19/4010**

**Re: Property at 11e Mill Street, Kirkcaldy, Fife, KY1 1AD (“the Property”)**

**Parties:**

**Brammield & Simpson, Mr David Simpson, PO Box 26772, Kirkcaldy, Fife, KY1 1ZF; PO Box 26772, Kirkcaldy, Fife, KY1 1ZF (“the Applicant”)**

**Mr Joshua Ingram, 11e Mill Street, Kirkcaldy, Fife, KY1 1AD (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the possession of the property and the ejection of the Respondent from the property.**

**Background**

1. By application dated 19 December 2019 the Applicant applied to the Tribunal for an order for the possession of the property and the ejection of the Respondent from the property under Grounds 8, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The applicant submitted a copy of the tenancy agreement, Form AT6, Sheriff Officers Certificate of Execution of Service, Rent Statement and Section 11 Notice.
2. By Notice of Acceptance dated 24 December 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management discussion was assigned.

3. Intimation of the Case management discussion was sent to the Applicant by post on 9 January 2020 and was given to the Respondent by Sheriff Officers on the same day.

#### The Case Management Discussion

4. A Case Management Discussion was held at Fife Voluntary Action, Kirkcaldy on 12 February 2020. The Applicant was represented by Mr David Simpson and Mr Colin Brammeld. The Respondent did not attend and was not represented. The Tribunal being satisfied that proper intimation having been given to the Respondent by Sheriff Officers determined to proceed in his absence.
5. Mr Simpson confirmed that the parties had entered into a Short Assured tenancy agreement that had commenced on 12 September 2015 for a period of 6 months until 12 March 2016 and then from month to month thereafter.
6. Mr Simpson said that the rent per calendar month had initially been £450.00 but had increased on 12 July 2016 to £460.00 and had remained at that since that time.
7. Mr Simpson confirmed that the Respondent had at first paid rent regularly but had then fallen into arrears. He explained that the Respondent's father was a guarantor and had previously cleared the Respondent's arrears but was now not responding to emails.
8. Mr Simpson explained that he had arranged for Sheriff Officers to serve a Form AT6 on the Respondent in November 2019 as at that time more than three months arrears had accrued. The amount outstanding at the date of service by Sheriff Officers of the At6 on 20 November 2019 was £1546.56.
9. Mr Simpson advised the Tribunal that there had been a payment received from Universal credit but as at the date of the Case Management discussion the arrears stood at £2659.02.
10. Mr Simpson confirmed he had intimated the proceedings to Fife Council by way of a Section 11 Notice by email on 19 December 2019.
11. Mr Simpson submitted that the terms of Ground 8 of Schedule 5 of the 1988 Act having been met the order sought should be granted.

#### Findings in Fact

12. The parties entered into a Short Assured Tenancy that commenced on 12 September 2015 and endured for a period of 6 months and continued thereafter from month to month.
13. The initial rent was £450.00 per calendar month but increased to £460.00 with effect from 12 July 2017.

14. The Respondent accrued rent arrears amounting to £1546.56 as at 19 November 2019.
15. A form AT6 was served on the Respondent by Sheriff Officers on 20 November 2019.
16. The applicant sent a Section 11 Notice to the Fife Council by email on 19 December 2019.
17. The Respondent accrued rent arrears amounting to £2659.02 as at the date of the Case Management discussion.

#### Reasons for Decision

18. The Tribunal was satisfied from the documentary evidence produced that the parties entered into a Short assured tenancy agreement that commenced on 12 September 2015 at an initial rent of £450.00. The Tribunal was satisfied from the documents produced that the rent was increased with effect from 12 July 2016 to £460.00 per calendar month.
19. The Tribunal was satisfied from the documents produced and the oral submissions of Mr Simpson that more than three months' rent arrears had accrued at the date of service by Sheriff Officers of the Form AT6.
20. The Tribunal was satisfied that the Form AT6 was in proper form and had been properly served by Sheriff Officers.
21. The Tribunal was satisfied that proper intimation of these proceedings had been given to Fife Council in accordance with the provisions of the Homelessness etc (Scotland) Act 2003 by sending a Section 11 Notice on 19 December 2019.
22. The Tribunal was satisfied from the oral submissions of Mr Simpson that the Respondent's rent arrears as at the date of the Case Management discussion had increased to £2659.02 and there was therefore more than three months' rent outstanding. The tribunal was therefore satisfied that the terms of Ground 8 of Schedule 5 of the 1988 Act had been met and as this was a mandatory ground for possession the Tribunal had to grant the order sought. The Tribunal in these circumstances did not consider it necessary to consider the discretionary grounds 11 and 12.

#### Decision

23. The Tribunal having considered the documentary evidence submitted together with the oral submissions was satisfied that the Applicant was entitled to an order for possession of the property and the ejection of the Respondent from 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.



Graham Harding  
Legal Member/Chair

12 February 2020  
Date