

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



**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/19/1315**

**Re: Property at 53 Stevenson Drive, Edinburgh, EH11 3DP (“the Property”)**

**Parties:**

**Mr Graham Paton, Ms Diane Paton, c/o Southside Property Management, 20 Nicholson Street, Edinburgh, EH8 9DH (“the Applicant”)**

**Ms Gemma Fox, 53 Stevenson Drive, Edinburgh, EH11 3DP (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a hearing and made an Order for possession of the Property.**

By application, received by the Tribunal on 1 May 2019, the Applicant sought an Order for Possession of the Property under Grounds 8, 11 and 12 of Schedule 5 to the Housing (Scotland) Act 1988 (“the 1988 Act”).

The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 2 December 2016 at a rent of £695 per month and a rent statement showing arrears as at 25 April 2019 of £2,085. The Applicant also provided the Tribunal with a copy of a Form AT6 Notice sent to the Respondent, dated 2 April 2019, intimating the intention of the Applicant to apply to the Tribunal for an Order for Possession of the Property on Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act and that proceedings would not be raised before 18 April 2019.

On 21 May 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 8 June 2019.

The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the afternoon of 26 June 2019. The Applicant was represented by Mr Scott Clair of Gilson Gray LLP, solicitors. The Respondent was not present or represented.

The Applicant's representative advised the Tribunal that the arrears of rent now stood at £3,475 and asked the Tribunal to grant the application without a hearing and to make an Order for Possession under Ground 8 of Schedule 5 to the 1988 Act.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would determine the application without a hearing.

Section 18 and Ground 8 of Schedule 5 to the 1988 Act provide that the Tribunal shall make an Order for Possession if, both at the date of service of the notice given under Section 19 of the 1988 Act (the Form AT6 Notice) and at the date of the hearing, at least three months' rent lawfully due from the tenant is in arrears.

The Tribunal was satisfied that the requirements of Ground 8 had been met. The monthly rent was £695. At the date of service of the Form AT6 Notice, the arrears were £2,085, which represented three months' rent and at the date of the Case Management Discussion the arrears were £3,475, in excess of three months' rent. Accordingly, the Tribunal was bound to grant the application and to make an Order for Possession of the Property.

Having determined the application under Ground 12 of Schedule 5 to the 1988 Act, it was not necessary for the Tribunal to consider further the alternative Grounds for Possession set out in the application.

### **Decision**

The Tribunal determined that the application should be granted without a hearing and made 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.**

George Clark

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Legal Member/Chair

26 June 2019

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Date