



**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/18/1462

Re: Property at 14 Balbardie Crescent, Bathgate, EH48 4AJ (“the Property”)

Parties:

CK Estates Limited, 51 Marjoribanks Street, Bathgate, EH48 1AL (“the Applicant”)

Mrs Laura Ross, 14 Balbardie Crescent, Bathgate, EH48 4AJ (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent(s) for possession of the Property under section 18 of the Housing (Scotland) Act 1988, together with an award of expenses restricted to those expenses incurred by the Applicant in the preparation for, and attendance at, the Case Management Discussion on 20 September 2018.

- **Background**

A Case Management Discussion took place on 20 September 2018. Hayley Swanson of TC Young, Solicitors was present on behalf of the Applicant. There was no appearance by or on behalf of the Respondent.

A previous Case Management Discussion had taken place on 29 August 2018, at which Miss Swanson had appeared for the Applicant. There had been no appearance by or on behalf of the Respondent at said previous Case Management Discussion. Prior to said Case Management Discussion, the Respondent had contacted the Tribunal office to seek a postponement of the Case Management

Discussion on the basis that she said she had been in hospital since the papers had been served, that she was still unwell and would be unable to attend the Case Management Discussion. but that she still wished to state a defence to the action. At said Case Management Discussion, the matter was continued to 20 September for the Respondent to lodge a doctor's certificate confirming that she was unable to attend the Case Management Discussion on 29 August 2018 due to ill health and further for her to lodge a written note of her proposed defence. The Respondent failed to adhere to either of the Directions issued.

- Case Management Discussion

At the Case Management Discussion of 20 September 2018, Miss Swanson moved for the Order for Repossession to be granted as sought in the application. Despite the Direction issued on 29 August 2018, the Respondent had failed to lodge either a doctor's certificate or a note of defence. Miss Swanson produced an up to date rent statement showing that the current arrears of rent balance was £3708.88. The monthly rent due by the Respondent was £700 and she was accordingly in arrears of more than 3 months' of rent. Miss Swanson submitted that Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 applied and accordingly the Order for Repossession should be granted as sought.

Miss Swanson also moved for an award of expenses in terms of Rule 40 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. She submitted that the Applicant had been put to unreasonable additional expense due to the Respondent's failure to attend the first Case Management Discussion and then her subsequent failure to adhere to the terms of the Direction previously issued and that the Applicant had had to prepare for and attend a second hearing as a result.

- Findings in Fact

1. The Respondent entered into a tenancy agreement with the Applicant in terms of which she was due to pay a monthly rent of £700.
2. The Respondent was in arrears of rent amounting to over three months' rent due to the Applicant
3. The Respondent had failed to adhere to the Direction issued on 29 August 2018

- Reasons for Decision

By virtue of the Respondent's failure to pay rent lawfully due, she had accrued arrears of rent amounting to £3708.88 as at the date of the Case Management Discussion. The Respondent accordingly was in arrears of more than the equivalent of three month's rent. As at the date of service of the Form AT6 on the Respondent on 18 May 2018 the Respondent had been in arrears of rent amounting to £3498.96 and was accordingly in arrears of more than the equivalent of three month's rent. Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 applies. The Applicant is accordingly entitled to an Order for Repossession of the Property as sought.

The Tribunal was satisfied that the Applicant had been put to unnecessary additional expense in the preparation for, and attendance at, the Case Management Discussion of 20 September 2018 due to the Respondent's failure to adhere to the Direction issued of 29 August 2018 and subsequent failure to appear at the Case Management Discussion.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order is granted against the Respondent(s) for possession of the Property under section 18 of the Housing (Scotland) Act 1988, together with an award of expenses restricted to those expenses incurred by the Applicant in the preparation for, and attendance at, the Case Management Discussion on 20 September 2018.

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.

Fiona Watson

Legal Member/Chair

20/9/18

Date