



**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 (“the Act”)**

Chamber Ref: FTS/HPC/EV/19/1813

**Re: Property at Flat 33, The Furlongs, Cadzow House, Hamilton, South
Lanarkshire, ML3 0DZ (“the Property”)**

Parties:

**Mr David Marshall, 149 Machahill, Larkhall, ML9 2JR (“the Applicant”) per his
agents, Jackson Boyd LLP, Centenary House, 69, Wellington Street, Glasgow
G2 6HG (“the Applicant’s Agents”)**

**Mr Andrew Hunter, Flat 33, The Furlongs, Cadzow House, Hamilton, South
Lanarkshire, ML3 0DZ (“the Respondent”)**

Tribunal Members:

Karen Moore (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Order for Possession be granted.**

Background

1. By application received on 12 June and 3 July both dates 2019 (“the Application”), the Applicant’s Agents, on behalf of the Applicant, made an application to the Tribunal for a possession order in terms of Section 33 of the Act and in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. The Application comprised copy of a short assured tenancy agreement between the Parties at a monthly rent of £325.00, copy Notice in terms of Section 33(1)(d) of the Act commonly known as form AT6 citing Grounds 8, 11 and 12 of Schedule 5 to the Act, copy rent statement showing rent due and owing by the Respondent to the Applicant of £4,794.00, copy Notice to Quit and copy Notice in terms of

Section 11 of the Homelessness etc (Scotland) Act 2003 ("the 2003 Act") to the relevant local authority, all with evidence of intimation.

3. On 17 July 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion ("CMD") was fixed for 4 September 2019 at 14.00 at The Glasgow Tribunals Centre, Room 108, 20, York Street, Glasgow, G2 8GT. The CMD was intimated to both Parties.

Case Management Discussions

4. The CMD took place on 4 September 2019 at the said Glasgow Tribunals Centre. The Applicant was not present and was represented by Ms. Keenan of the Applicants' Agents who confirmed the Order sought. The Respondent was not present and was not represented. The CMD was adjourned to 17 October 2019 to allow the Applicant's Agents to amend the Application to seek an Order in terms of Section 18 of the Act and Rule 65 of the Rules.
5. The Application having been amended by the Applicant's Agents, the adjourned CMD took place on 17 October 2019 at the said Glasgow Tribunals Centre. The Applicant was not present and was represented by Ms. Sloey of the Applicants' Agents who confirmed the Order sought. The Respondent was not present and was not represented.
6. Ms. Sloey advised me that rent of £6,094.00 is now due and owing and confirmed to me that this is in excess of three months rent lawfully due and owing by the Respondent to the Applicant and so Ground 8 of Schedule 5 to the Act is satisfied

Findings in Fact

7. From the Application and the adjourned CMD, I found that a tenancy agreement exists between the Parties, that a competent AT6 was served on the Respondent, that the notice in terms of Section 11 of the 2003 Act had been intimated to the relevant local authority and that rent of at least three months is lawfully due and owing by the Respondent to the Applicant and so Ground 8 of Schedule 5 to the Act is satisfied. Accordingly, I found that the statutory provisions had been satisfied.

Decision and Reasons for Decision

8. Having found that the correct procedure had been followed, I had regard to Section 18 of the Act which states that, in these circumstances, "the First-tier Tribunal shall make an order" and to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussion which it may do at a hearing, including make a decision" and, accordingly, I determined to grant an Order for possession without further procedure.

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.

Karen Moore

Legal Member/Chair

17 October 2014

Date