



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 18(3) of the Housing
(Scotland) Act 1988**

Chamber Ref: FTS/HPC/EV/18/2130

**Re: Property at 6 Church Street, Dunbar, East Lothian, EH42 1HA (“the
Property”)**

Parties:

**Mr Gregg Smith, Mrs Heather Smith, 3 Bridgend Cottage, Cockburnspath,
Berwickshire, TD13 5YG (“the Applicant”)**

**Mr Vladimir Lukas, Ms Anna Lukasovo, 6 Church Street, Dunbar, East Lothian,
EH42 1HA (“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 to decide the application without a hearing, granted the
application and made an Order for Possession under Section 18(3) of the
Housing (Scotland) Act 1988**

Background

By application, received by the Tribunal on 15 August 2018, the Applicant sought an Order for Possession under Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The application was accompanied by copies of a Short Assured Tenancy Agreement which commenced on 17 April 2017 at a rent of £575 per month, a rent statement as at 17 July 2018, a Notice to Quit the Property dated 9 July 2018, a Form AT6 Notice given under Section 33 of the 1988 Act and proof of service by sheriff officers on the Respondent of both Notices, dated 11 July 2018.

The Grounds for seeking an Order for Possession were stated in the AT6 Notice to be Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act.

By letter dated 11 October 2018, the Tribunal intimated to the Parties the date and place of a Case Management Discussion and the Respondent was invited to make

written representations no later than 29 October 2018. The Respondent made no written representations to the Tribunal.

The Case Management Discussion

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the morning of 1 November 2018. The Applicant was represented at the Case Management Discussion by Rachel Hill of Paris Steele WS. The Respondent was not present or represented.

The Applicant's representative provided the Tribunal with an up to date rental statement. At the time of the application, the arrears had been £2,300, representing 4 months' unpaid rent and no payments had been received since 17 March 2018. The updated statement showed that £655 had been paid on 17 September 2018, £575 had been paid on 17 October 2018 and £80 had been paid on 26 October 2018. The Applicant's representative told the Tribunal that the arrears were now £2,715, which exceeded three months' unpaid rent.

The Applicant's representative asked the Tribunal to exercise its discretion to decide the application without a hearing and to grant the Order for Possession under Ground 8 of Schedule 5 to the 1988 Act.

Findings of Fact

The arrears of rent exceeded three months both at the date of service of the Form AT6 Notice and at the date of the Case Management Discussion.

Reasons for Decision

Under Section 18(3) of the 1988 Act, the Tribunal must make an Order for Possession if it is satisfied that any of the Grounds in Part 1 of Schedule 5 to the 1988 Act is established.

Ground 8 in Part 1 of Schedule 5 to the 1988 Act applies where, both at the date of the service of the Form AT6 Notice and at the date of the hearing, at least three months' rent lawfully due from the tenant is in arrears.

Rule 17 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 states 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 it required to make a decision and that it would decide the application without a hearing.

The Tribunal was satisfied that both at the date of service of the Form AT6 Notice (11 July 2018) and at the date of the Case Management Discussion, at least three months' rent lawfully due from the Respondent was in arrears. Accordingly, the requirements of Ground 8 of part 1 of Schedule 5 to the 1988 Act had been met and the Tribunal was required to grant the application and to make Order for Possession of the Property.

Having decided to grant the application under Ground 8, the Tribunal found it unnecessary to make any decisions under Ground 1 or 12 of Schedule 5 to the 1988 Act.

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

