



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in relation to application for recall of previous decision**

**Chamber Ref: FTS/HPC/EV/22/4481**

**Re: Property at 3 Victoria Crescent, Ayr, South Ayrshire, KA8 9TL (“the Property”)**

**Parties:**

**Clyde Coast Contracts, 36 green Street, Ayr, South Ayrshire, KA8 8BQ (“the Applicant”)**

**Mrs Afton Adair, UNKNOWN, UNKNOWN (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and Melanie Booth (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**BACKGROUND**

1. By Lease dated 28<sup>th</sup> February 2021 the Applicant let the Property to the Respondent;
2. The Respondent appears thereafter to have vacated the premises. The Applicant served a Notice to Leave seeking to terminate the tenancy, the ground relied upon being that the Respondent was no longer occupying the Property;
3. The Respondent thereafter raised proceedings seeking an order for eviction. The Tribunal assigned a case management discussion for 21<sup>st</sup> April 2023. That case management discussion required to be postponed as Sheriff Officers were unable to locate the Respondent to intimate the proceedings upon her;
4. The Tribunal assigned a further case management discussion for 19<sup>th</sup> May 2023. Service upon the Respondent was effected by way of advertisement on the Tribunal website;

5. Neither party participated in the case management discussion. The proceedings had been intimated upon the Applicant by the Tribunal. The Tribunal had a certificate of service by advertisement in relation to the Respondent;
6. The Tribunal dismissed the Application for want of insistence;
7. Later that day the Applicant's representatives contacted the Tribunal advising that due to a diary error they had missed the Case Management Discussion and seeking a recall of the decision of the Tribunal. Despite the fact the Respondent had already vacated the Property, the Applicant wished an order for eviction to lawfully enter the Property;
8. Having regard the fact the Respondent has already vacated the Property, as intimated by the Applicant and confirmed by virtue of the inability of Sheriff Officers instructed by the Tribunal to locate the Respondent to serve the proceedings on her, necessitating service by advertisement, and having regard to the fact that, had the Applicant's representatives participated in the case management Discussion an order for eviction would have been granted, the Tribunal recalls its decision dated 19 May 2023 dismissing the application.
9. Thereafter, having considered the case further, the Tribunal, in accordance with Rule 18 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, having regard to facts which are not disputed – that the Respondent has already vacated the Property – and being satisfied that it is not contrary to the interests of the Parties, determines that it can make a decision without the need for a further hearing and grants an order for eviction.

## **DECISION**

The Tribunal:-

Grants the Application to recall its decision dated 19 May 2023 dismissing the application;

Determines that, on the facts which are not in dispute it can make a further decision without the need for a further hearing;

Grants an order for eviction 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.**



**6 July 2023**

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