



**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/18/0130

**Re: Property at Top Floor Left, 32 Main Street, Dundee, DD3 7EZ (“the
Property”)**

Parties:

Mr Roy Taylor, 176 Perth Road, Dundee, DD1 4JS (“the Applicant”)

**Mr Andrew Tolan, Top Floor Left, 32 Main Street, Dundee, DD3 7EZ (“the
Respondent”)**

Tribunal Members:

Nicola Irvine (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant is entitled to the order for recovery of
possession.**

- **Background**
Mr Barry Taylor submitted an application seeking an order to evict the Respondent from the property at Flat Top Left, 32 Main Street, Dundee, DD3 7EZ. The Tribunal intimated the application to the Respondent on 14th February 2018 and advised him of the date, time and place of today’s hearing. In that letter, the Respondent was advised that any written representations he wished to make should be sent to the Tribunal by 4th March 2018. No written representations were received by the Tribunal. The Respondent was also told that he required to attend the hearing and was informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair.
- **The Hearing**
The hearing took place in the absence of the Respondent. Mr Barry Taylor attended along with Mr Roy Taylor. They were represented by Mr Campbell

Donaldson, Solicitor. A motion was made to amend the application to the extent of substituting Mr Roy Taylor as the Applicant. That motion was made in terms of Section 32 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017. The basis for that motion was that title to the property is in the name of Mr Roy Taylor, rather than Mr Barry Taylor. Thereafter, Mr Donaldson produced an updated rent statement and provided further information regarding the rent arrears. The Applicant sought an order for recovery of possession on grounds 8, 11 and 12 of the Housing (Scotland) Act 1988.

- Findings in Fact

1. The Respondent entered into a tenancy agreement dated 30th May 2017. The period of the lease was 30th May 2017 to 30th November 2017. The rent payable was £340 per calendar month, payable in advance.
2. The Applicant served notice on the Respondent on 15th November 2017 of his intention to raise proceedings to recover possession of the property in terms of Grounds 8, 11 and 12 to schedule 5 of the Housing (Scotland) Act 1988, indicating that proceedings would not be raised before 1st December 2017.
3. The Applicant served a notice to quit on 15th November 2017 indicating that the Respondent required to remove from the property by 31st December 2017.
4. The rent arrears due as at the date of the application amounted to £1,677.72 and as at today's date amounted to £1,896.20.

- Reasons for Decision

The tribunal was satisfied that Mr Roy Taylor is the owner of the property and therefore has title to make the application. In the circumstances, the Tribunal granted the motion to amend the application to substitute Mr Roy Taylor as the Applicant. One of the grounds relied upon by the Applicant is ground 8, which is mandatory. The tribunal was satisfied that the test for ground 8 was met in respect that there were more than 3 months' rent arrears due as at the date of the application and the date of the hearing.

- Decision

The amendment was allowed and the order for recovery of possession granted.

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.

Nicola Irvine

Legal Member/Chair

19.03.2018

Date