



**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/18/2754

**Re: Property at 318 Kingsbridge Drive, Rutherglen, Glasgow G73 2BN
LAN 4269 ('the Property')**

Parties:

**Mr Saeed Malik Awan and Mrs Tahira Malik, care of The Property Store, 111
Albert Drive, Glasgow G41 2SU ('the Applicants')**

**Mr Kevin John Miller, 318 Kingsbridge Drive, Kingspark, Glasgow ('the
Respondent')**

Tribunal Members:

Joseph C Hughes (Legal Member) and David Wilson (Ordinary Member)

Decision [in absence of the Respondent]

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the
Tribunal') determined that the Applicants were entitled to an Order for
Possession of the property and the ejection of the Respondent from the
property.**

BACKGROUND

By Application dated 15th October 2018 and received on 16th October 2018, the Applicants (through their agents, Hardy Macphail, Solicitors, Glasgow), sought an Order for Possession of the property and the ejection of the Respondent in terms of Section 18 of the Housing (Scotland) Act 1988 ('the 1988 Act') on the grounds that more than three months' rent was outstanding all in terms of Ground 8 of Schedule 5 of the 1988 Act. The Application was lodged in terms of Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

The Tribunal had before it:

- (a) The Application, dated 15th October 2018;
- (b) Copy Form AT5, dated 1st August 2015;
- (c) Short Assured Tenancy Agreement, dated 1st August 2015;
- (d) Copy Form AT6, dated 12th September 2018;
- (e) Sheriff Officers' execution of service said Form AT6, dated 14th September 2018;
- (f) Copy rent statement (with additional updated statement as at 1st December 2018);
- (g) Section 11 Local Authority Notice, dated 15th October 2018;
- (h) Notice to Quit/Section 33 Notice, dated 12th September 2018;
- (i) Sheriff Officers execution of service of Intimation of today's Hearing together with Papers, dated 22nd November 2018;
- (j) Additional correspondence from Hardy Macphail.

On 1st November 2018, the Application was accepted by the Tribunal and referred for determination by the Tribunal.

A Hearing took place on Thursday 13th December 2018 at 2pm within Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. Appropriate intimation of that Hearing was given to both parties.

Mr Michael Ritchie, Solicitor, represented the Applicants. Mr Atif Ahmed (from the Property Store) appeared on behalf of the Applicants. Neither the Respondent nor a representative attended the Hearing.

At the outset of the Hearing, Mr Ritchie confirmed that yesterday the Respondent returned a set of keys for the property to the Property Shop. It is further believed that the Respondent has secured new accommodation.

The Applicants' representative confirmed that they wished the Tribunal to grant the Order for Eviction as sought in the Application.

FINDINGS IN FACT

- (i) The Applicants and the Respondent are respectively the Landlords and Tenant. They entered into a tenancy agreement for the property at 318 Kingsbridge Drive, Rutherglen, Glasgow G73 2BN on 1st August 2015.
- (ii) The Tenancy was a Short Assured Tenancy.
- (iii) The rent was £475 per calendar month payable monthly in advance.
- (iv) Rent arrears as at the date of service of the Form AT6 (14th September 2018) was £1425.
- (v) Rent arrears as at the date of the Application (15th October 2018) was £1900.

- (vi) Rent arrears as at the date of the Hearing (13th December 2018) was £2375.
- (vii) Rent lawfully due to the Applicants, all in terms of the agreement between the parties, has not been paid by the Respondent.
- (viii) No rent has been paid since 1st August 2018.

REASONS FOR DECISION

The Tribunal was satisfied that there was at least three months rent due at the date of serving Notice in terms of section 19 of the 1988 Act, and also at the date of the Hearing. Ground 8 of Schedule 5 to the 1988 Act requires the Tribunal to grant an Order for Possession in these circumstances, provided that rent is not in arrears as a consequence of a delay or failure of relevant housing benefit or relevant universal credit.

There was no information before the Tribunal to suggest that the Respondent is in receipt of relevant housing benefit or universal credit, or that delay in payment of these benefits has been responsible for the failure to pay rent lawfully due.

On 14th September 2018 the Applicants served upon the Respondent/Tenant a copy of Form AT6. They also served a Notice to Quit and a Notice in terms of Section 33 (1) (d) of the Act. This was served on the Respondent by sheriff officers.

The Form AT6 informed the Respondent that the Appellants wished to seek recovery of possession using the provisions of Section 19 of the Act under Ground 8 of Schedule 5 of the 1988 Act, namely relying on the rent arrears which had accumulated.

The Form AT6 was correctly drafted and gave appropriate periods of notice as required by law.

The basis for the Order for Possession was accordingly established.

Accordingly, the Tribunal was satisfied that the requirements set out in Ground 8 of Schedule 5 to the 1988 Act were met and the Order for Possession of the property was therefore 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.

Mr Joseph C Hughes

A handwritten signature in black ink, appearing to read 'Joseph C Hughes', is written over a horizontal dotted line.

['Joseph C Hughes']

Legal Member
Housing Property Chamber

Date: 13th December 2018