



**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/18/0405**

**Re: Property at 8 Corrie Crescent, Kilmarnock, KA3 2AN (“the Property”)**

**Parties:**

**Marble Properties LTD, 272 Bath Street, Glasgow, G2 4JR (“the Applicant”)**

**Mrs Diana Lindenberga-Zeinvalde, 8 Corrie Crescent, Kilmarnock, KA3 2AN  
 (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member)**

**Background**

The Applicant lodged the application seeking the Respondent’s eviction on Grounds 8,10,11,12 and 13 of Schedule 5 to the Housing (Scotland) Act 1988.

The Applicant had lodged the following documents in support of the Application:

1. Copt Tenancy Agreement
2. Form AT5
3. Notice To quit
4. S33 Notice
5. S11 Notice
6. Form AT6

**Case Management Discussion**

The Applicant was represented by their director, Alan Wong. The Respondent was not present and was not represented.

The Tribunal explained to the Applicant the purpose of a Case Management Discussion, and also that the Tribunal could make a decision if it thought it appropriate.

Mr Wong told the Tribunal that the Respondent moved in to the property on 30<sup>th</sup> June 2017. She paid two months' rent in advance. However, her rent payments became erratic and she made many excuses, including that her benefits were not being paid on time. Mr Wong contacted the DWP and arranged for them to pay the Housing element of the benefit to him direct. After this the Respondent told him that he could sort the rest of it out himself and she was not paying anything over and above the amount he was receiving from the DWP.

The Tribunal asked Mr Wong to outline the grounds on which he was seeking eviction. He said that he could not use ground 12 as the Respondent was not three months in arrears. However he would be seeking eviction on the basis of grounds 10, 11, 12 and 13.

The Tribunal pointed out that Ground 13 could not be used if the only breach was rent arrears, and that the Notice To Quit which had been served was premature.

The Tribunal pointed out that Grounds 11 and 12 were discretionary, and asked Mr Wong to put forward why he thought it was reasonable to evict.

Mr Wong told the tribunal that the Respondent lived in the house with two teenage children and a dog, and that there might be a man in the house but he was not sure. He said that the Respondent had latterly not been responding to his enquiries about rent payment. He detailed the arrears which were outstanding.

## **Findings in Fact**

The Tribunal found:

1. The AT6 had been properly prepared and served
2. A section 11 notice had been properly prepared and served
3. The Respondent had been in arrears of rent as follows:
  - (A) £535 at the time the notices were served
  - (B) £1110 at the time the application was lodged
  - (C) £1604.58 at today's date
4. The Respondent had persistently delayed paying rent which was lawfully due
5. Some rent lawfully due by the Respondent was unpaid on the date on which proceedings for possession were begun and also at the date the notice was served.

## **Reasons for Decision**

The Tribunal found that Grounds 11 and 12 were established, and also that it was reasonable to grant the order given the Respondent's conduct and her dealings with the Applicant and her failure to appear at the hearing.

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be 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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal’s decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**

A Kelly

Legal Member/Chair

J

Date

18/6/18