



**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/22/0162**

**Re: Property at 5 Albert Street 16, Edinburgh, EH7 5HL (“the Property”)**

**Parties:**

**Mr Antonio Crolla, Mrs Angela Crolla, 3 Priestfield Road, North Edinburgh,  
EH16 5HS (“the Applicant”)**

**Mr Antonio Vistola, 5 Albert Street 16, Edinburgh, EH7 5HL (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member) and Mike Scott (Ordinary Member)**

**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.**

**Background**

On 20th January 2022 the Applicants lodged an application with the Tribunal in terms of Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking an order for eviction of the Respondents in terms of section 18 of the Housing (Scotland) Act 1988.

Lodged with the Application were:

1. Copy Tenancy Agreement
2. AT5
3. Notice to Quit dated 23<sup>rd</sup> December 2020 with leave date of 2<sup>nd</sup> July 2021
4. Section 33 Notice dated 23<sup>rd</sup> December 2020 with leave date of 2<sup>nd</sup> July 2021
5. Recorded Delivery Receipt
6. Rent statement
7. Section 11 Notice

The papers were served on the Respondents by Sheriff Officer on 21st March 2022.

### **Case Management Discussion**

A Case Management Discussion (“CMD”) took place by teleconference on 9<sup>th</sup> May 2022.

The Applicant was represented by Miss Donnelly of TC Young, Solicitors. The Respondent did not appear and was not represented.

Miss Donnelly confirmed that she was seeking an order for eviction in terms of the application. The Notices had been served correctly and the tenancy had been brought to an end on 2<sup>nd</sup> July 2021, tacit relocation was not operating.

In relation to reasonableness Miss Donnelly said that the Respondent was in substantial rent arrears, amounting to £7887. He is not engaging with the letting agents. The Applicant held off on raising tribunal proceedings after the period of notice expired as the letting agent was trying to assist the Respondent with local authority housing. However, he had stopped engaging. Miss Donnelly said that the Respondent was sixty six years of age, lived alone and was believed to be a chef.

### **Findings In Fact**

1. The parties entered in to a Short Assured Tenancy Agreement with an initial term of 1<sup>st</sup> November 2016 to 2<sup>nd</sup> May 2017 and monthly thereafter, with an AT5 having been served;
2. Notice to Quit and section 33 Notice were served on the Respondents correctly and timeously;
3. The tenancy came to an end on 2<sup>nd</sup> July 2021 and tacit relocation was not operating;
4. The Applicant’s letting agent had made numerous attempts to assist the Respondent prior to raising proceedings;
5. The last contact the Respondent had with the letting agent was in July 2021;
6. As at today’s date the rent arrears amount to £7887.

### **Reasons For Decision**

The Tribunal were satisfied from the information put forward that the ground of eviction had been established.

Granting an application for eviction based on section 18 of the Housing (Scotland) Act 1988 provided that the notices are correct and have been served

correctly, is normally mandatory. However, in terms of Section 2 and Schedule 1, Paragraph 3 of the Coronavirus (Scotland) Act 2020 makes the ground discretionary and the Tribunal has to consider reasonableness. The section is as follows:

*3(1)The Housing (Scotland) Act 1988 applies, in relation to a notice served on a tenant under section 19 or 33(1)(d) of that Act while this paragraph is in force, in accordance with the modifications in this paragraph.*

*(2)Section 18 (orders for possession) has effect as if—*

*(a)subsections (3) and (3A) were repealed,*

*(b)in subsection (4), for “Part II” there were substituted “Part I or Part II”,*

*(c)in subsection (4A), after the word “possession” there were inserted “on Ground 8 in Part I of Schedule 5 to this Act or”.*

*(3)Section 20 has effect as if subsection (6) (no discretion where landlord entitled to possession) were repealed.*

*(4)Section 33 (recovery of possession on termination of a short assured tenancy) has effect as if in subsection (1)—*

*(a)in the opening words, for the word “shall” there were substituted “may”,*

*(b)after paragraph (b), the word “and” were repealed,*

*(c)after paragraph (d) there were inserted “, and*

*(e)that it is reasonable to make an order for possession.”.*

*(5)Schedule 5 (grounds for possession of houses let on assured tenancies) has effect as if for the heading of Part I there were substituted “Certain grounds on which First-tier Tribunal may order possession in relation to the period of the Coronavirus (Scotland) Act 2020”.*

The Tribunal has to consider all the circumstances relevant when deciding on reasonableness. However in this case the Respondent had rent arrears of £7887, he had not been in touch with the Applicant’s letting agent since July 2021 and the Applicant’s agent having tried to assist the Respondent on numerous occasions, the Tribunal considered it reasonable to grant the eviction.

## **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.

**Alison Kelly**

9<sup>th</sup> May 2022

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**Legal Member/Chair**

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**Date**