

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18(1) of the Housing (Scotland) Act 1988 (“the Act”)

Chamber Ref: FTS/HPC/EV/19/1284

Re: Property at 46 Oakburn Avenue, Milngavie, Glasgow, G62 7PA (“the Property”)

Parties:

Mr Mark Barrett, 170 Culrain Street, Glasgow, G32 7UF (“the Applicant”) per his agent, Mr. Paul Neilly of Messrs Mitchell Robertson, solicitors, 36, North Hanover Street, Glasgow, G1 2AD

Mr Thomas Hart, 46 Oakburn Avenue, Milngavie, Glasgow, G62 7PA (“the Respondent”) per his agent, Mr Kevin Duffy, of Messrs Ruthven, Keenan and Pollok, solicitors, 832, Crow Road, Glasgow, G13 1HB

Tribunal Members:

Karen Moore (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Order for Possession be granted.

1. By application received between 26 and 30 April 2019 (“the Application”) the Applicant’s Agents made an application to the Tribunal for a possession order in terms of Section 18 of the Act and in terms of Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. The Application comprised evidence of a tenancy between the Parties, copy Notice to Quit and Form AT6 in the correct legal format and copy Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 (“the 2003 Act”) to East Dunbartonshire Council being the relevant local authority, all with evidence of intimation.
3. On 10 May 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management

Discussion ("CMD") was fixed for 25 June 2019 and intimated by both Parties. The Respondent's agent lodged written representations. At the CMD, the Parties were both represented and a Hearing was fixed for 5 September 2019 and adjourned to 18 October 2019.

4. Prior to that Hearing, the Parties lodged a Joint Minute to the effect that an extra-judicial settlement had been reached and requesting that the Hearing be adjourned to allow the settlement to proceed. Accordingly, the Hearing was adjourned to 12 December 2019.

Hearing

5. The Hearing took place on 12 December 2019. Neither the Applicants nor the Respondent were present. Both were represented by Mr. Neilly in terms of an email of authority to do so issued by Mr. Duffy
6. Mr. Neilly confirmed the Order sought. Mr. Neilly referred the Tribunal to the terms of the Joint Minute and the email exchange between the agents which evidenced that the terms of the Application were accepted and the Application was not opposed.

Findings in Fact

7. From the Application and the CMD, the Tribunal found that a tenancy agreement existed between the Parties, that proper notice had been given by the Applicants to the Respondents, that grounds for possession had been established and that notice in terms of Section 11 of the 2003 Act had been properly intimated to the relevant local authority.

Decision and Reasons for Decision

8. Having found that the correct procedure had been followed and there being no opposition by the Respondent, the Tribunal determined to grant an Order for possession without further procedure.

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.



Legal Member/Chair
Karen Moore

12 December 19

Date