



**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/19/1802

Re: Property at 286 Hawthorn Street, Glasgow, G22 6RU (“the Property”)

Parties:

Bank of Scotland PLC, The Mound, Edinburgh, EH1 1YZ (“the Applicant”)

**Ms Ann Marie Gray, 286 Hawthorn Street, Glasgow, G22 6RU (“the
Respondent”)**

Tribunal Members:

Nairn Young (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

- Background

This is an application for an order for possession of the Property, which is let to the Respondent in terms of an assured tenancy. The case called for a case management discussion at 10am on 4 September 2019. The Applicant was represented by Ms Meep of Aberdeen Considine, Solicitors. The Respondent was not present or represented.

- Findings in Fact

1. The Respondent entered into an assured tenancy of the Property which commenced on 10 November 2008. A written notice was served on the Respondent alongside the tenancy agreement proper, which stated:

“I... your prospective Landlord GIVE NOTICE that the tenancy being offered to you of the flatted dwelling house at 286 Hawthorn Street, Glasgow, G22 6AZ to which this notice relates is subject to a Standard Security in favour of

The Royal Bank of Scotland plc and that Application may be made to the Court to recover possession of the dwellinghouse under Ground 2 of Part 1 of the Schedule 5 to the Housing (Scotland Act) 1988.”

The notice was subscribed by the Respondent and her landlord. It was numbered page 4. The tenancy agreement proper was numbered pages 1-3 and contained a clause stating, “I hereby acknowledge to have received a Notice served under Ground 2 of the Schedule to the Housing (Scotland) Act 1988.” It was executed separately, immediately after the notice.

2. The Property is subject to a heritable security in favour of Halifax plc, Trinity Road, Halifax, West Yorkshire, HX1 2RG (co. no. 2367076). That security was registered on 8 January 2007. The Applicant acquired Halifax plc’s rights under the security on 17 September 2007. The Sheriff at Glasgow granted decree on 30 November 2018 declaring, among other things, “that the [Applicant] has the right to sell the subjects and to enter into possession of the subjects.” On the same date, warrant was granted for it to do so. The Applicant intends to sell the Property in exercise of this right and requires vacant possession of it to do so.
3. A form AT6 was served on the Respondent by the Applicant by sheriff’s officers on 25 February 2019. This stated that the Applicant intended to raise proceedings for possession of the Property on the basis of Ground 2 of schedule 5 to the Housing (Scotland) Act 1988 (‘Ground 2’). It stated that such proceedings would not be raised any earlier than 26 April 2019. This application was made on 11 June 2019.

- Reasons for Decision

4. The Tribunal accepts that the notice numbered as page 4 of the tenancy agreement forms part of the agreement and thus both states terms upon which the Property is let and meets the requirement of part (b) of Ground 2. While there are various errors in the notice, most glaringly in identifying the wrong party as holding the security, the Tribunal was satisfied that none of these invalidate it as to the latter function. It is not a requirement of part (b) of Ground 2 that the holder of the security be identified and it makes no difference to the Respondent’s position who it may be.
5. The Tribunal is also satisfied that the wording used is sufficiently clear as to provide for the tenancy to be brought to an end on Ground 2. There is no other way of understanding the meaning of the final sentence in the notice.
6. That being the case, Ground 2 has been established and is a mandatory ground for an order for possession to be granted.

- Decision

Order for 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.

Nairn Young

Legal Member/Chair

4 SEPTEMBER 2019

Date