

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 (Act)

Chamber Ref: FTS/HPC/EV/19/2033

Re: Property at 221 CroftPark Avenue, Glasgow, G44 5JH (“the Property”)

Parties:

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

Ms Diana Covaci, 221 CroftPark Avenue, Glasgow, G44 5JH (“the Respondent”)

Tribunal Members:

Alan Strain (Legal 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 and recovery of possession be granted.

Background

This was an application for an order of eviction and recovery of possession under section 18(1) of the Act and rule 65 of the Tribunal Procedure Rules. The ground for recovery of possession and eviction was stated to be Ground 2 of schedule 5 to the Act.

The Tribunal had regard to the following documents:

1. Application received 1 July 2019;
2. Assured Tenancy Agreement dated 14 November 2016;
3. AT6 dated 19 February 2019;
4. Royal Mail Track and Trace confirming service of AT6;
5. Section 11 Notice to Glasgow City Council;
6. Extract Decree dated 1 September 2017 in favour of the Applicant.

Case Management Discussion (CMD)

The case called for a CMD on 11 September 2019. The Applicant was represented by their Solicitor. The Respondent did not appear and was not represented.

The Tribunal was satisfied that notification of the CMD had been served personally upon the Respondent by Sheriff Officers on 2 August 2019. The Tribunal had regard to the Sheriff Officer's Certificate of Service to that effect.

The Tribunal considered that the Respondent was aware of the fact that the Tribunal could proceed in her absence and, if satisfied that it had sufficient information to do so and the procedure was fair, the Tribunal could determine the matter.

The Tribunal considered the documentation and made the following findings in fact:

1. The Parties entered in to an Assured Tenancy(AT) dated 14 November 2016;
2. Prior to the creation of the AT a Standard Security had been granted by the Owner over the Property in favour of the Applicant;
3. The Applicant as heritable creditors called up their security over the Property and were granted decree under the Conveyancing and Feudal Reform (Scotland) Act 1970 on 1 September 2017;
4. AT6 was served upon the Respondent on 20 February 2019;
5. Section 11 Notice was served on Glasgow City Council on 1 July 2019.

The Tribunal considered Ground 2 of Schedule 5 to the Act. The Property was subject to a standard security in favour of the Applicant prior to the creation of the AT. The Applicant has called up the security and by decree of 1 September 2017 become entitled to sell the Property with vacant possession.

There was no evidence of the Respondent having been advised that possession may be recovered on this Ground but, in the circumstances, the Tribunal dispensed with the requirement of such notice.

The Tribunal was satisfied that the terms of Ground 2 were satisfied and that the procedure was fair. The Tribunal considered it was appropriate to grant the order for eviction and recovery of possession at this stage.

Order for eviction and recovery of 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.

Alan Strain

Legal Member/Chair

11 September 2019

Date