



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988 (Act)**

**Chamber Ref: FTS/HPC/EV/19/3692**

**Re: Property at 17 Westwood Park, Deans, Livingston, West Lothian, EH54 8QP (“the Property”)**

**Parties:**

**Mr John Cunningham, Mrs Irene Cunningham, Loganville, 12a Balloch Road, Balloch, Alexandria, G83 8SR (“the Applicant”)**

**Mr Paul Forster, Ms Lorraine Sarah Robinson - Moseley, 17 Westwood Park, Deans, Livingston, West Lothian, EH54 8QP (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (Legal Member) and Elizabeth Williams (Ordinary Member)**

**Decision**

**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 is an application under Rule 65 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (Rules)*. The Applicant seeks to recover possession of the Property on the basis of Ground 1 to Schedule 5 of the Act.

Ground 1 provides:

*Ground 1*

Not later than the beginning of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this Ground or the First-tier Tribunal is of the opinion that it is reasonable to dispense with the requirement of notice and (in either case)—

(a) at any time before the beginning of the tenancy, the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them occupied the house as his only or principal home; or

(b) the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them requires the house as his or his spouse's or civil partner's only or principal home, and neither the landlord (or, in the case of joint landlords, any one of them) nor any other person who, as landlord, derived title from the landlord who gave the notice mentioned above acquired the landlord's interest in the tenancy for value.

The Tribunal had the following documents in advance of the Hearing:

1. Application received 18 November 2019;
2. Short Assured Tenancy Agreements (**SAT**) from commencement of the tenancy;
3. AT6;
4. Notice to Quit;
5. Section 11 Notice;
6. Proof of service of Notice to Quit and AT6;
7. CMD Hearing Note dated 30 January 2020;
8. List of Documents for the Applicant;
9. List of Witnesses for the Applicant;
10. List of Documents for the Respondent;
11. List of Witnesses for the Respondent;
12. Emails from the Parties and their Representatives of 30 and 31 July 2020.

## **Hearing**

In advance of the Hearing the Parties' representatives had contacted the Tribunal by emails of 30 July 2020 confirming that the Parties had reached agreement. The agreement was to the effect that an eviction order was to be granted (of consent) but not to be issued for a number of months.

The Tribunal considered the documentation lodged by both Parties and the terms of the agreement between the Parties.

The Tribunal made the following findings in fact:

1. The Parties entered into a series of SATs commencing 10 January 2010;
2. Clause 9.1 of the SAT commencing 10 January 2010 provided "The Parties agree notice is hereby given that possession may be recovered under Ground 1....";
3. AT6 and Notice to Quit had both been served on the Respondent;
4. Section 11 notification had been given to the local authority;
5. The Applicant had resided in the Property prior to the commencement of the SAT;
6. The Applicant required the Property as their principal home;

7. The Respondent agreed and consented to an order for eviction and recovery of possession being granted on this Ground.

The Tribunal considered that the requirements of Ground 1 were satisfied and that an order for eviction and recovery of possession should be granted in the circumstances. The Parties agreed that possession could be recovered on this Ground (1) and the Respondent consented to the order being granted.

The Tribunal were aware that the Respondent had sourced alternative accommodation.

The Parties asked the Tribunal to delay the issue of the eviction order. The Tribunal invited Parties to provide written submissions on why the order should be delayed. The Parties confirmed by email that they did not seek to delay the issue of the order.

In the circumstances the Tribunal granted the order for eviction and recovery of possession to be issued in the normal manner.

### **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. Strain

**A. Strain  
Legal Member/Chair**

**31 July 2020  
Date**