



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section under Section 33 of the
Housing (Scotland) Act 1988**

Chamber Ref: FTS/HPC/EV/19/1247

**Re: Property at 2 Manderston Meadows, Newton Mearns, G77 6GL (“the
Property”)**

Parties:

**Mr Shaan Hussain and Ms Asima Hussain, both residing at 75 Capelrig Road,
Newton Mearns, G77 6UF; (“the Applicants”) per their agents, Cleanturnaround
Ltd., The Botanics, 0/1, 5 Hamilton Gardens, Glasgow, G12 8BD (“the
Applicants’ Agents”)**

**Mr John Niven and Mrs Nicola Niven, both residing at 2 Manderston
Meadows, Newton Mearns, G77 6GL (“the Respondents”)**

Tribunal Members:

Karen Moore (Legal Member)

Decision (in absence of the Respondent)

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

1. By application received between 23 April 2019 and 10 May 2019 (“the Application”), the Applicants’ Agents, on behalf of the Applicants, made an application to the Tribunal for a possession order in terms of Section 33 of the Act and in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. The Application comprised copy of a short assured tenancy agreement between the Parties with Notice in terms of Section 32 of the Act (“AT5”), copy Notice in terms of Section 33(1)(d) of the Act (“AT6”), copy Notice to Quit in the correct legal format terminating the tenancy and copy Notice in terms of Section 19A of the Act to East Renfrewshire Council being the relevant local authority, all with evidence of intimation.

3. On 22 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 10 July 2019 at 10.00 at The Glasgow Tribunals Centre, Room 108, 20, York Street, Glasgow, G2 8GT. The CMD was notified to the Parties.

Case Management Discussion

4. The CMD took place on 10 July 2019 at 10.00 at the said Glasgow Tribunals Centre. The Applicants were not present and were represented by Ms. Anne Alexander and Ms. Wilma Edwards of the Applicants' Agents who confirmed the Order sought. The Respondents were not present and were not represented.

Findings in Fact

5. From the Application and the CMD, I found that a tenancy agreement had existed between the parties until terminated by the Applicant by virtue of a competent Notice to Quit served on the Respondents by the Applicants' Agents, that tacit relocation is not operating and that proper notice had been given by the Applicants' Agents to the Respondents that the Applicants require possession of the Property. I found that the notice in terms of Section 19A of the Act had been properly intimated to the relevant local authority. Accordingly, I found that the statutory and common law provisions required to terminate the tenancy between the Parties had been satisfied.

Decision and Reasons for Decision

6. Having found that the tenancy had been terminated and the correct procedure followed, I had regard to Section 33(1) of the Act which states that, in these circumstances, "the First-tier Tribunal shall make an order" and to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussion which it may do at a hearing, including make a decision" and, accordingly, I 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.

K Moore

Legal Member/Chair

10 July 2019

Date