



**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/23/0484**

**Re: Property at Lefthand House on the Second Floor, 221 Allison Street,  
Glasgow, G42 8RU (“the Property”)**

**Parties:**

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

**Ms Miheala-Leordana Rostas, Lefthand House on the Second Floor, 221  
Allison Street, Glasgow, G42 8RU (“the Respondent”)**

**Tribunal Members:**

**Nairn Young (Legal Member) and Helen Barclay (Ordinary 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 the Respondent occupies in terms of an assured tenancy. The Applicant is the heritable creditor of the Respondent’s landlord. The application called for a case management discussion (‘CMD’) at 10am on 2 June 2023, by teleconference. The Applicant was represented on the call by Mrs Masters of Aberdeen Considine, solicitors. The Respondent was not on the call and was not represented.

The application, including notice of the CMD, was served on the Respondent by sheriff officers on 26 April 2023. The Tribunal was satisfied that the Respondent was

aware of the CMD, but had chosen not to attend; and that it was therefore fair to proceed in her absence.

- Findings in Fact

The application is undefended. The relevant factual background to the case was as follows:

1. The Respondent occupies the Property in terms of an assured tenancy with an initial term of 1 June 2015 to 1 December 2015.
2. The tenancy has continued by tacit relocation since the expiry of that initial term.
3. The tenancy agreement includes a notice that the Property is subject to a heritable security and that possession may be recovered by the heritable creditor, in the event of a default on the part of the landlord.
4. The Applicant is the heritable creditor of the Respondent's landlord, in terms of a heritable security granted before the creation of the tenancy.
5. The Applicant was granted a decree for repossession of the Property on 12 May 2017.
6. A form AT6 was served by the Applicant on the Respondent on 17 August 2022, indicating that it intended to raise proceedings for possession of the Property, reliant on Ground 2 of Schedule 5 to the Housing (Scotland) Act 1988.
7. This application was raised on 15 February 2023.
8. The Respondent is not paying rent, and has not been for a matter of years, as a result of the repossession of the Property.

- Reasons for Decision

9. The requirements of ground 2 have been made out. In particular, on balance, the Tribunal considered it was reasonable to grant an order for possession in the circumstances. While, on one view, the Respondent is effectively losing her tenancy as result of her landlord's failures; the very existence of ground 2 as a basis for eviction demonstrates that that fact alone is not sufficient to render eviction unreasonable.

10. Against that background, the Respondent has already benefitted considerably from the situation by living in the Property rent-free for a matter of years. It is not reasonable to extend that benefit indefinitely.

11. The Tribunal has not been made aware of any other information that would tend to suggest that it would be unreasonable to grant the order sought.

- Decision

**Order for possession of the Property 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**

**Date 2<sup>nd</sup> June 2023**