

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 33 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/18/1413

Re: Property at 29 Dalmarnock Drive, Glasgow, G40 4LN (“the Property”)

Parties:

Mr Qasim Hanif, 567 Cathcart Road, Govanhill, Glasgow, G42 8SG (“the Applicant”)

Mr Muhammad Jawad Hafeez, Ms Humaira Jawad, 29 Dalmarnock Drive, Glasgow, G40 4LN (“the Respondents”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Second Respondent)

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

Background

This is an application dated 5th June 2018 brought in terms of Rule 66 (Application for order for possession upon termination of a short assured tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant provided with his application copies of the short assured tenancy agreement, Notice to Quit, Section 33 notice, Section 11 notice, and relevant executions of service. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The applicant did not produce a copy of the form AT5, but referred to the terms of the lease in which the Respondents by signing it accepted that they had received a copy of this prior to the execution of the tenancy agreement.

The Respondents had *ex facie* been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 18th July 2018, and I was provided with the executions of service.

Case Management Discussion

A Case Management Discussion was held on 17th August 2018 at Glasgow Tribunals Centre, Room 109, 20 York Street, Glasgow. The Applicant did not appear, but was represented by Miss Baxter, solicitor. The First Respondent appeared in person, and was not represented. The Second Respondent did not appear. She is the wife of the First Respondent, who advised the Tribunal that his wife was unable to appear as she was tending to their daughter who was unwell, and that he was representing her.

I was invited by Miss Baxter with reference to the application and papers to grant the order sought.

The First Respondent indicated that he and the Second Respondent had vacated the premises on 1st June 2018, and in those circumstances consented to the order sought by Miss Baxter being granted.

He indicated that he and the Second Respondent were now living at 23 Dalmarnock Drive, Glasgow, G40 4LN. He accepted that he and the Second Respondent had received and been served with all the appropriate paperwork noted above, and indeed had brought those with him to today's hearing, albeit I note that the execution of service bears to have been at the Property rather than his new address.

Statement of Reasons

In terms of Section 33 of the *Housing (Scotland) Act 1988*, the Tribunal shall make an order for possession of the house let on the tenancy if:

- (a) the short assured tenancy has reached its end;
- (b) tacit relocation is not operating;
- (c) no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
- (d) the landlord has given to the tenant notice stating that he requires possession of the house.

All of the above criteria have been satisfied in this application, and accordingly the Tribunal shall make an order for possession.

Decision

In these circumstances, I will make an order for possession of the house let on the tenancy as sought in this application.

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.

Neil Kinnear

Legal Member/Chair

17/08/18

Date