

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Determination of First-tier Tribunal for Scotland (Housing and Property Chamber) under the Housing (Scotland) Act 1988 Section 34**

**Chamber Ref: FTS/HPC/RS/18/3458**

**59 Glen Lednock Drive, Cumbernauld, Glasgow, G68 0EJ (“the Property”)**

**The Parties:**

**Places for People Homes Limited, c/o Touchstone, Stanley House, Clarence Dock, Leeds, LS10 1PZ (“the Landlord”)**

**Ms Rebecca Elizabeth Geddes, residing at 59 Glen Lednock Drive, Cumbernauld, Glasgow, G68 0EJ (“the Tenant”)**

**Tribunal Members:**

**MR E K MILLER, Chairman and Legal Member and Mrs S Hesp, Ordinary Member**

## **BACKGROUND**

### **1. Introduction**

The Landlord had let the Property to the Tenant on Short Assured Tenancy with effect from 10 October 2017.

By notice dated 5 September 2018 the Landlord proposed to increase the rent from £550 per calendar month to £560 per calendar month with effect from 1 November 2018. The Tenant had objected to the rental increase and had applied for a determination to the Tribunal under Section 34 of the House (Scotland) Act 1988.

Subsequently, and in advance of the hearing that was scheduled for 6 March 2019, the Landlord indicated that the Tenant had removed from the Property and the tenancy was at an end.

The Tribunal checked this information with the Tenant, as the Tribunal was of the view that if the tenancy had come to an end the Tribunal was not required to make a determination. The Tenant confirmed that she had removed from the Property. However, she still had an issue in that her understanding was that the Landlord was proposing to pursue her for arrears, which included rent at the higher level of £560 pcm.

This put a slightly different complexion on the matter from the point of view of the Tribunal in that the higher rent, whilst it had been proposed, had not been determined by the Tribunal. The Tribunal therefore required to consider whether it would continue with the hearing to determine what the correct rental was and therefore the amount of arrears that could be pursued.

The Tribunal highlighted this to the Landlord. The Landlord confirmed that they would not be pursuing the Tenant for the higher monthly amount and would only pursue for arrears of rent based on the original rental of £550.

The Tribunal considered matters. The Tenancy was at an end. Without a tenancy to adjudicate upon the Tribunal did not feel it had jurisdiction. The Landlord had confirmed that they were only seeking rent arrears at the original rent and not the disputed rent. On that basis the Tribunal was content that it did not have any jurisdiction, that the matter should not proceed and that the case should be abandoned.

## 2. The Decision

The Tribunal no longer had jurisdiction and the matter was abandoned by the Tribunal.

## 3. Right of Appeal

In terms of section 46 of the Tribunals (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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

**E Miller**

..... Chairperson

Date

..... 30/6/19 .....