

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

---



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

**Chamber Ref: FTS/HPC/EV/24/0578**

**Re: Property at 55 Jordanhill Drive, Jordanhill, Glasgow, G13 1UW (“the Property”)**

**Parties:**

**University of Strathclyde, McCance Building, 16 Richmond Street, Glasgow, G1 1XQ (“the Applicant”)**

**Mr David Nimmo, Care Of Ashgill Care Home, 33 Liddlesdale Square, Glasgow, G22 7BU (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision (in absence of the Respondent)**

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

**BACKGROUND**

1. By Lease dated 29<sup>th</sup> October 2012, the Applicant let the Property to the Respondent.
2. Prior to the lease being signed, a notice in terms of s32 of the Housing (Scotland) act 1988 (“the 1988 Act”) – commonly referred to as a form AT5 – was served upon and signed by the tenant, Mr David Nimmo. The lease is, accordingly, a short assured tenancy.
3. At the time the lease was entered into David Nimmo was an employee of the Applicant. His employment with the Applicant ended a number of years ago. The Property, however, continues to be occupied by his adult sons.
4. The Applicant wishes to recover possession of the Property to enable it to be sold.

5. A notice to quit and a notice in terms of s33 of the 1988 act was served upon David Nimmo.

#### **CASE MANAGEMENT DISCUSSION 12 AUGUST 2024**

6. The Applicant was represented at the Case Management Discussion by Mr Gordon of Thorntons Law LLP. David Nimmo did not participate.
7. The Tribunal had attempted to serve notice of the proceedings upon David Nimmo. Sheriff officers, however, reported that this was not possible. The information provided is that David Nimmo is now, due to health reasons, residing in a care home. The manager of the care home did not permit service of the proceedings as David Nimmo is not mentally fit. The Respondent is no longer able to see nor read. The Respondent's son, Marc Nimmo, has been appointed as his guardian for legal purposes.
8. While the Tribunal had been provided with copies of email correspondence between the Applicant's solicitors and David Nimmo's brother (who is, of course, an uncle of the two adult children occupying the Property) which indicated a cordial relationship between the Applicant and the occupiers of the Property, and confirmed that the occupiers were aware of the ongoing proceedings and that they were actively seeking alternative accommodation, the Tribunal concluded that, to grant an order for eviction, it would require to be satisfied that the proceedings had been properly served upon David Nimmo or his legal guardian.
9. In the circumstances, the Tribunal granted an oral motion made by Mr Gordon, on behalf of the Applicant, to amend the application to alter the designation of the Respondent. The designation of the Respondent will now be Marc Nimmo, residing at 55 Jordanhill Drive, Jordanhill, Glasgow, G13 1UW, as guardian of David Nimmo, formerly residing there and now residing at Ashgill Care Home, 33 Liddlesdale Square, Glasgow, G22 7BU.
10. The Case Management Discussion was thereafter adjourned until 20<sup>th</sup> September 2024 at 11.30am.

#### **CASE MANAGEMENT DISCUSSION 20 SEPTEMBER 2024**

11. The Applicant was again represented by Mr Gordon of Thornton Law LLP. The Respondent did not participate in the Case Management Discussion. The Tribunal, however, was in receipt of a certificate of service by Sheriff Officers of the proceedings upon Mr Marc Nimmo, guardian of the Respondent. It was clear to the Tribunal also, from documentation previously provided, that Marc Nimmo, the Respondent's son and legal guardian, his brother and the Respondent's brother were all aware of the ongoing proceedings. In the circumstances, the Tribunal determined that it was appropriate to proceed in the absence of the Respondent.
12. Mr Gordon moved the Tribunal to grant an order for eviction.
13. Having regard to the following factors:-
  - a) The Applicant is a commercial institution.
  - b) The lease was granted in favour of the Respondent when he was employed by the Applicants.

- c) The Respondent is no longer employed by the Applicant.
- d) The Respondent is no longer occupying the Property.
- e) The Applicant, being a commercial organisation, given the Property is no longer required for its originally intended purpose, wishes to sell the Property.
- f) All necessary statutory notices have been served prior to proceedings being raised.
- g) The occupiers, both adult children of the Respondent, are aware of the proceedings.
- h) Neither the Respondent, nor the occupiers of the Property, opposed the application.

the Tribunal was satisfied that it was reasonable to grant an order for eviction.

## **DECISION**

The Tribunal granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

Order not to be executed prior to 12 noon on 28 October 2024

## **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.**

**Virgil Crawford**

---

Legal Member/Chair

---

**20 September 2024**  
Date