

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 and Section 18 of the Housing (Scotland) Act 1988.**

**Chamber Ref: FTS/HPC/EV/24/2819**

**Re: Property at 3 Printers Land, Clarkston, Glasgow, G76 8HP (“the Property”)**

**Parties:**

**Amanda Galasso and Marco Galasso, both residing at 15 Kilpatrick Gardens, Clarkston, Glasgow, G76 7RD (“the Applicants”); and**

**Bannatyne Kirkwood France & Co, Solicitors, Exchange House, 16 Royal Exchange Square, Glasgow, G1 3AG (“the Applicant’s Representative”) and**

**Edward Stephen Murphy, residing at 3 Printers Land, Clarkston, Glasgow, G76 8HP (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**M Lyden - Ordinary Member**

**Decision:**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant the Application.**

**Background and Case Management Discussion on 19<sup>th</sup> December 2024**

1. This is an Application 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 Rules of Procedure (“the 2017 Rules”).
2. The Applicants Mr and Mrs Galasso had provided the Tribunal, in the Application, with copies of the parties’ short assured tenancy agreement, Form AT5, Notice to Quit (“NTQ”) and Sections 33 and 11 Notices with 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 (“the 1988 Act”), and the procedures set out in the Act had been correctly followed and applied.

3. Sheriff Officers served copies of the Application papers, Guidance Notes and notification of the CMD on the Respondent Mr Murphy by letterbox on 12<sup>th</sup> November 2024.
4. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 2.00pm on 19<sup>th</sup> December 2024. The Applicants’ Representative’s Ms A. Wooley and the Respondent Mr Murphy attended. Ms Wooley stated that the Applicants Mr and Mrs Galasso wished to recover possession of the Property for financial reasons. She said that the monthly mortgage amount which they pay, in respect of the Property, has doubled to £350.00 per month and that the mortgages for two other rental properties that they own have also increased. Ms Wooley stated that the outstanding mortgage balance, in respect of the Property, is approximately £46,000.00 and that Mr and Mrs Galasso wish to realise the equity in the Property. She said that Mr and Mrs Galasso consider that as Mr Murphy was served with a Notice to Quit and Section 33 in November 2023, he has had sufficient time to obtain alternative accommodation and they do not wish any eviction order granted to have a deferred enforcement date.
5. Mr Murphy stated that he consents to the eviction order being granted. He said that he agrees that Mr and Mrs Galasso should be allowed to recover the Property and sell it to obtain capital. Mr Murphy stated that he is aged 63, lives alone and is not working at present. He said that he recently bid for a property in the sum of £63,000.00, but was unsuccessful. He stated that he had planned to fund the purchase by drawing monies from his pension. Mr Murphy said that he has also been looking for another private let in the East Renfrewshire area. He stated that his two sons live in the area and visit him regularly. Mr Murphy said that he does not have any health issues which prevent him carrying out his daily living activities. Mr Murphy also said that he has not missed a rental payment in the nine and a half years since the tenancy began in April 2015. He stated that he has not yet contacted East Renfrewshire Council regarding an application for accommodation. Mr Murphy said that he, ideally, would like some further time to obtain alternative private accommodation and/or seek assistance in this regard from his local authority. He said that he is willing to pay additional rent to Mr and Mrs Galasso if he is given further time to obtain another home.

### **Statement of Reasons**

7. In terms of Section 33 of the 1988 Act, the Tribunal shall make an order for possession of a house let on a 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.

8. The Tribunal considered all of the available evidence and the submissions of Ms Wooley and Mr Murphy. The Tribunal found in fact that all of the documentation regarding termination of the parties' tenancy agreement had been validly served on Mr Murphy. They found that Mr Murphy has always paid rent to the Applicants, Mr and Mrs Galasso, without difficulty and is actively seeking to move out of the Property to allow them to recover it and sell whilst continuing to pay rent. The Tribunal further found in fact that both Mr and Mrs Galasso and Mr Murphy wish an eviction order to be granted. Having made such findings in fact the Tribunal found in law that the parties' tenancy agreement had been lawfully brought to its end in terms of the relevant legislation and that it was reasonable to grant an eviction order. Given that the festive season is imminent, and Mr Murphy's opportunity to obtain alternative housing will be limited during the holiday season, the Tribunal decided that it was reasonable to grant the eviction order with a deferred enforcement date of 3<sup>rd</sup> March 2025. In reaching this particular decision the Tribunal placed reliance on Mr Murphy's history of always paying rent, his candid agreement that Mr and Mrs Galasso should recover their property and and his straightforward request for further time to obtain alternative housing.

9. At the conclusion of the CMD Mr Murphy stated that he hoped to be able to move out of the Property before 3<sup>rd</sup> March 2025 and that he will keep Mr and Mrs Galasso's letting agents, Harvey Lets, informed of developments in this regard. The Tribunal also encouraged Mr Murphy to take advice from East Renfrewshire Council regarding the availability of social housing as they consider this may maybe helpful to him in his search for other accommodation.

### **Decision**

10. The Tribunal granted an order for possession of the Property as sought in the 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.**

**19<sup>th</sup> December 2024**

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**Legal Member**

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**Date**

