

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 18(1) of the Housing
(Scotland) Act 1988**

Chamber Ref: FTS/HPC/EV/24/2721

Re: Property at 3 Dalmarnock Court, Glasgow, G40 4HL (“the Property”)

Parties:

Mr Stephen Sharp, Flat 3/2, 68 Silvergrove Street, Glasgow, G40 1DR (“the Applicant”)

Ms Sharon Murphy, 3 Dalmarnock Court, Glasgow, G40 4HL (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for possession of the property.

Background

1. By application dated 14 June 2024 the Applicant’s representatives, Clarity Simplicity Ltd, Glasgow, applied to the Tribunal for an order for possession of the property in terms of Grounds 8 and 12 of Schedule 5 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicant’s representatives submitted copies of tenancy agreements, Notice to Quit and Form AT6 with execution of service, Section 11 Notice and email, pre-action protocol letter and a rent statement together with other documents in support of the application.
2. Following further correspondence between the Applicant’s representatives and the Tribunal administration, by Notice of Acceptance dated 16 October 2024 a legal member of the Tribunal with delegated powers accepted the application under ground 12 of schedule

5 of the 1988 Act and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 18 February 2025.

The Case Management Discussion

4. A CMD was held by teleconference on 3 April 2025. The Applicant attended in person and was represented by Ms Emma Hamilton from the Applicant’s representatives. The Respondent did not attend nor was she represented.
5. The Tribunal was advised by Ms Hamilton that in August 2024 the Applicant had been contacted by Glasgow City Council to say that he was liable to pay Council Tax for the property as the Respondent had moved out but that because of data protection no address could be provided for the Respondent. Ms Hamilton went on to say that the Applicant’s representatives had subsequently written to the Respondent on 13 September 2024 at the property and the Respondent had contacted them by telephone to say that she was not going to admit to leaving the property and that the matter would have to be decided by the Tribunal. Ms Hamilton confirmed that subsequently the Applicant had been relieved of responsibility for the Council Tax.
6. The Tribunal noted from the documents submitted with the application that the Respondent had fallen into arrears of rent in February 2024 and had been served with Form AT6 by Sheriff Officers on 10 May 2024. Ms Hamilton confirmed that no rent had been paid since February 2024 and that the rent due from April 2025 amounted to £8250.00.
7. The Tribunal also noted that a Section 11 Notice had been sent to Glasgow City Council by email on 13 June 2024 and a pre-action protocol letter had been sent to the Respondent on 7 June 2024.
8. In response to a query about the Applicant’s circumstances, Ms Thomson said that the Respondent’s failure to pay rent had a massive impact financially on the Applicant and had caused him considerable stress and upset especially as he was unable to put a new tenant into the property.
9. In response to a further query from the Tribunal the Applicant said that several neighbours had confirmed that the Respondent had moved to a new flat across the road from the property and that she was not occupying the property. Ms Hamilton confirmed the property across the road belonged to a housing association and that she believed the Respondent lived alone. Ms Hamilton also confirmed that there had been no issues with the payment of rent until February 2024.

10. Ms Hamilton submitted it was reasonable to grant the order sought.

Findings in Fact

11. The Respondent commenced an Assured tenancy of the property at a rent of £550.00 per calendar month in 2013 and this has continued by tacit relocation.
12. A Form AT6 under Ground 12 of Schedule 5 of the 1988 Act was served on the Respondent on 10 May 2024.
13. A Section 11 Notice was sent to Glasgow City Council on 13 June 2024.
14. A pre-action protocol letter was sent to the Respondent by post on 7 June 2024.
15. The Applicant has suffered financially from the Respondent's failure to pay rent and has also suffered stress and upset.
16. The Respondent does not appear to be living in the property but is living nearby and storing belongings in the property.
17. The Respondent has not paid any rent for the property since February 2024 and both at the date of service of the Form AT6 and at the date of the CMD some rent was lawfully due by the Respondent.
18. The amount of rent due by the Respondent to the Applicant in April 2025 will be £8250.00.

Reasons for Decision

19. The Tribunal was satisfied from the documents submitted and the oral submissions that the Respondent commenced an Assured Tenancy in 2013 and that this continued by tacit relocation on the same terms and conditions thereafter. The Tribunal was also satisfied that a valid Form AT6 had been served on the Respondent under Ground 12 of Schedule 5 of the 1988 Act and that proper intimation of the proceedings had been given to Glasgow City Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced that an appropriate pre-action protocol letter had been sent to the Respondent.
20. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for possession of the property and the removal of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that despite being given an

opportunity to submit written representations to the Tribunal and to attend the CMD the Respondent had chosen to do neither. The Tribunal also took account of the fact that it seemed very likely that the Respondent was no longer living in the property but was in fact staying in a property nearby but keeping some belongings in the property and refusing to confirm to the Applicant's representatives that she had left the property. The Tribunal accepted that the situation had an adverse effect on the Applicant both financially and by causing him stress and upset. In balancing the needs of the parties, the Tribunal had no hesitation in concluding that it was reasonable to grant the Applicant an order for possession of the property and the removal of the Respondent from the property.

Decision

21. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for possession of the property and the removal of the Respondent from the property.

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.

Graham Harding

**Graham Harding
Legal Member/Chair**

**3 April 2025
Date**