



**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/19/0370**

**Re: Property at 8/1 39 Muirhouse Street, Glasgow, G41 1QD (“the Property”)**

**Parties:**

**Bank of Scotland PLC, The Mound, Edinburgh, EH1 1YZ (“the Applicant”)**

**Mr Wasim Hussain, 8/1 39 Muirhouse Street, Glasgow, G41 1QD (“the Respondent”)**

**Tribunal Members:**

**Patricia Pryce (Legal Member)**

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

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

- **Background**

The Applicant sought an order for possession on the basis of Ground 2 of Schedule 5 of the Housing (Scotland) Act 1988. The Applicant was the holder of standard security in respect of the property. The Applicant obtained a decree on 21 December 2017 from Glasgow Sheriff Court in respect of the calling up of that standard security. The Applicant now sought to achieve vacant possession of the property.

- **The Case Management Discussion (CMD)**

The Applicant was represented by Mr John Di Paola, solicitor. The Respondent did not appear nor was he represented. Mr D Paola submitted that the Applicant’s solicitor had received an email from the Respondent the previous week wherein the Respondent submitted that he had now vacated the property.

The Tribunal noted that the Respondent had been duly notified of the CMD and determined to continue with the CMD in the absence of the Respondent in terms of Rule 29 of the Rules of Procedure.

Mr Di Paola submitted that the Applicant wished to obtain vacant possession of the property to make it more marketable as the Applicant wished to dispose of the property. The Respondent had been a tenant of the property since 2013. However, the Applicant wished to sell the property and attempt to minimise any loss in respect of the standard security. The Respondent had intimated to the Applicant that he had now left the property.

- Findings in Fact

1. The Applicant had obtained a decree in respect of a calling up notice it had served subsequent to a standard security it held over the property.
2. The heritable security had been granted before the creation of the tenancy.
3. The Respondent had been a tenant of the property from 2013.
4. The landlord of the property had died but had defaulted on his payments in respect of the standard security prior to his death.

- Reasons for Decision

The Respondent had been notified of the CMD and chose not to attend. The Applicant had exercised its rights under its standard security and had obtained a decree in respect of the calling up notice. The Applicant wished to dispose of the property to try and minimise its losses and required vacant possession for that purpose.

- Decision

The Tribunal determined to grant the order for possession.

## 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.**

**P Pryce**

1 April 2019

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Legal Member/Chair

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Date