

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 33(1) of the Housing (Scotland) Act 1988 (“the Act”)

Chamber Ref: FTS/HPC/EV/19/0957

Re: Property at Flat 2/2, 14 Arnprior Quadrent, Glasgow, G45 9EZ (“the Property”)

Parties:

Mr Douglas Cochrane and Mrs Yvonne Cochrane, residing at 11 Lawrence Avenue, Giffnock, Glasgow, G46 6PG (“the Applicants”) per their agent, Mr. Graham McDonald of Chattelle Estates, 120 Eastwoodmains Road, Clarkston, Glasgow, G76 7HH (“the Applicant’s Agent”)

Ms Michelle McCahey, Flat 2/2, 14 Arnprior Quadrent, Glasgow, G45 9EZ (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. By application received between 26 March 2019 and 15 April 2019 (“the Application”), the Applicants’ Agent made an application on their behalf to the Tribunal for a possession order in terms of Section 33 of the Act and in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). A copy of the tenancy agreement between the parties, a copy of a Notice to Quit, copy notice in terms of Section 33(d) of the Act, copy notice of intention to raise proceedings in terms of Section 19 of the Act, copy rent statement and a copy of notice in terms of Section 19A of the Act to South Lanarkshire Council all with proof of service were lodged as part of the Application.

2. On 30 April 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion ("CMD") was fixed for 20 June 2019 at 14.00 The Glasgow Tribunals Centre, Room 112, 20 York Street, Glasgow, G2 8GT. The CMD was intimated to both parties.

Case Management Discussion

3. The CMD took place on 12 June 2019 at 14.00 at the said Glasgow Tribunals Centre. Neither the Applicants nor the Respondent was present. The Applicants' Agent who confirmed the Order sought represented the Applicants. The Respondent was not represented.
4. The Applicants' Agent confirmed to me, with reference to the rent statement, that the rent arrears at the time of service of the notice of intention to raise proceedings in terms of Section 19 of the Act and at today's date exceed three months' rent. The Applicants' Agent advised me that attempts to contact the Respondent had proved fruitless.

Findings in Fact

5. From the Application and the CMD, I found that a tenancy agreement had existed between the parties until terminated by the Applicant by virtue of a Notice to Quit served on the Respondents by the Applicants and that tacit relocation is not operating. I found that notice in terms of Section 33(d) of the Act had been served on the Respondent and that notice in terms of Section 19A of the Act had been properly intimated to the relevant local authority. Accordingly, I found that the statutory and common law provisions required to terminate the tenancy between the Parties had been satisfied.
6. From the Application and the CMD, I found that at least three months' rent arrears at the date of service of the notice of intention to raise proceedings in terms of Section 19 Of the Act and at the date of the CMD is due and owing by the Respondent.

Decision and Reasons for Decision

7. Having found that the tenancy had been terminated and the correct procedure followed, I had regard to Section 33(1) of the Act which states that "the First-tier Tribunal shall make an order" and to Rule 17(4) of the Rules which state that the Tribunal "may do anything at a case management discussion which it may do at a hearing, including make a decision" and, accordingly, I determined to grant an Order for possession.
8. Having so determined, there is no need for me to consider a determination in terms of the breach of tenancy. However, had I been required to do so, I would have determined that this ground had been satisfied and would have granted on the Order on that basis.

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.

Karen Moore

Legal Member/Chair

20 June 2019

Date