



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 33 of the Housing (Scotland)
Act 1988 (“the Act”)**

Chamber Ref: FTS/HPC/EV/18/2881

**Re: Property at 1/1 3 Cartbank Gardens, Muirend, Glasgow, G44 3JE (“the
Property”)**

Parties:

**Mrs Annette Lawler, c/o Clyde Property Residential Lettings, 8 Busby Road,
Clarkston, Glasgow, G76 7XL (“the Applicant”) per her agents Messrs
Bannatyne, Kirkwood, France & Co., 16 Royal Exchange Square, Glasgow G1
3AG**

**Mr Thierry Besnier, 1/1 3 Cartbank Gardens, Muirend, Glasgow, G44 3JE (“the
Respondent”)**

Tribunal Members:

Karen Moore (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Possession Order be granted.**

Background

1. By application received on 26 October 2018 and comprising copy short assured tenancy agreement between the parties, Notice to Quit with proof service, Notice of Proceedings in terms of Section 33(1)(d) of the Act with proof service and Notice to Glasgow City Council, being the relevant local authority, in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 (“the Application”), the Applicant per her agents applied to the Tribunal for a Possession Order in respect of the Property.
2. A legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion was fixed for 3 January 2019 at 14.00.

3. The Respondent submitted a written statement dated 10 December 2018 setting out his position in respect of why he had fallen into rent arrears by virtue of redundancy, explaining the effort he had gone to continue with rent payments, explaining that he is actively seeking new employment and requesting that any Order be delayed or suspended for 45 days to allow him an opportunity to secure alternative employment and accommodation. The written statement was intimated to the Applicant per her agents.

Case Management Discussion (“CMD”)

4. The CMD took place on 3 January 2019 at 14.00. The Applicant was not present and was represented by Miss Kirstie Donnelly of Messrs Bannatyne, Kirkwood, France & Co. The Respondent appeared on his own behalf.
5. I explained the nature of the matter before the Tribunal, being an application for an order to evict the Respondent from the Property, and the purpose of the CMD with reference to Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. I had regard to the content of the Application and explained the statutory process with which Applicant as landlord required to comply in order to obtain a Possession Order. I advised the parties that, in my view, the statutory process had been satisfied and that the Applicant had brought the tenancy to an end on 7 October 2018, regardless of any other grounds on which she might have relied.
6. I asked the Respondent if he agreed and accepted that the various notices as set out in the Application had been received by him and he agreed that this was so. I explained to the Respondent that the tenancy having been brought to an end in accordance with the required legislation, the Possession Order must be granted. I explained that in terms of the said Rule 17, I had the power to do anything at the CMD which could be done at a hearing, including making a decision and that I intended to do so.
7. With reference to the Respondent’s said written statement, I invited the Respondent to comment further on his current status in respect of employment and finding alternative accommodation. The Respondent advised me that he is in the final stages of securing a new post in Glasgow City Centre at a salary of around £45,000.00 - £50, 000.00 and hopes to sign a contract of employment in the next week. He asked that he be given 45 days to remain the Property before eviction so that he might receive his first month’s salary and be in a position to look for alternative accommodation and to pay the first month’s rent and security deposit.
8. Miss Donnelly, on behalf of the Applicant, strongly opposed any suspension of the Possession Order coming into effect and submitted that, given that the Possession Order does not come into effect until after the time limit for appeal or review and that there is a further statutory timescale for serving a charge to enforce decree, physical eviction could not take place until the middle of February at the earliest. Miss Donnelly submitted that the Applicant has been prejudiced as she has not had control and possession of the Property since October 2018 and that it was unfair to delay this further.

Findings in Fact

9. From the Application, the Respondent's written submission and submissions at the CMD, I found that there had been a short assured tenancy agreement between the parties which had been properly brought to an end on 7 October 2018 and that the Respondent remained within the Property, thus rendering the Application necessary.

Reasons for Decision

10. Having found that the statutory process had been complied with, I determined to grant the Possession Order. I had regard to the Respondent's written submission and submissions at the CMD in respect of suspending the effective date of the Order for a period of 45 days, but agreed with Miss Donnelly on behalf of the Applicant that the minimum time before the Order would come into effect was sufficient to allow the Respondent to make alternative arrangements and that further delay in regaining control of the Property would be unfair to the Applicant in respect of loss of rent.

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.

K Moore

Legal Member/Chair

3 January 2019
Date