

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 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/18/2691

Re: Property at 5 Gartness Drive, Gartness, Airdrie, ML6 8PT (“the Property”)

Parties:

Mrs Carol Cairley, 9 Lochearn Crescent, Airdrie, ML6 6SF (“the Applicant”)

Miss Miquella McCallum, 5 Gartness Drive, Gartness, Airdrie, ML6 8PT (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

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

Background

This is an application dated 4th October 2018 brought in terms of Rule 65 (Application for order for possession in relation to assured tenancies) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant provided with her application copies of the short assured tenancy agreement, form AT5, notice to quit, section 33 notice, section 19 notice (form AT6), section 11 notice, photographs, various correspondence and execution of service.

The tenancy agreement and form AT5 had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

Standing the importance of the notice of proceedings in giving notice to the tenant, and the candid explanation given by the Applicant, I do not consider in these circumstances that it is reasonable to dispense with the need for the notice.

That all being so, and where none of the essential notices required as a pre-requisite to the granting of an eviction order by the Tribunal are valid and effective, the Tribunal will accordingly dismiss this application.

Decision

For the above reasons, the Tribunal dismissed 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.

Neil Kinnear

Legal Member/Chair

20/12/18

Date