



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”) and Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/22/1245

Re: Property at G/L 6 Partickbridge Street, Partick, Glasgow, G11 6PL (“the Property”)

Parties:

Mr David Kelly and Mrs Jean Kelly, 12 Edgehill Road, Bearsden, Glasgow, G61 3AB (“the Applicants”) per their agents, Messrs., Bannatyne Kirkwood France & Co., 16 Royal Exchange Square, Glasgow G1 3AG (“the Applicants’ Agents”)

Mrs Manal Natto, residing formerly at the Property and now present whereabouts unknown (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. By application received between 29 April 2022 and 15 August 2022 (“the Application”), the Applicants’ Agents applied to the Tribunal for an Order for possession of the Property. The Application comprised a copy of a short assured tenancy agreement between the Parties, copy form AT6 dated 1 April 2022 with proof of service, copy Notice to Quit dated 11 February 2022 bringing the tenancy to an end on 24 April 2022 with proof of service and copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Glasgow City Council, being the relevant local authority.

2. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the "CMD") was fixed for 16 November 2022 and postponed to 27 January 2023 at 10.00 by telephone conference. The CMD was intimated to the Respondent by Service by Advertisement.

CMD

3. The CMD took place on 27 January 2023 at 10.00 by telephone conference. Mr. Kelly of the Applicants attended but did not take part and were represented by Ms. A. Wooley of the Applicants' Agents. The Respondent did not take part and did not submit any written representations.
4. On behalf of the Applicants, Ms. Wooley confirmed the Order sought.
5. With reference to the Application, Ms. Wooley advised the Tribunal that the Applicants relied on Ground 13 of Schedule 5 to the Act as the Respondent is in breach of the tenancy agreement by failing to occupy the Property and her present whereabouts are unknown. The Respondent's failure to occupy the Property is evidenced by reports from the letting agent and neighbours and rent has not been paid since September 2021. Ms. Wooley advised that rent amounting to £11,455.00 is outstanding which is having a significant impact on the Applicants. Further, as the Applicants cannot access the Property lawfully, they cannot be certain that it is in good order and repair.

Findings in Fact.

6. From the Application, the documents lodged and the CMD, the Tribunal made the following findings in fact:-
 - i) There is a short assured tenancy of the Property between the Parties;
 - ii) The Respondent is in breach of the tenancy agreement by failing to occupy the Property;
 - iii) A Section 18 AT6 form and a valid Notice to Quit have been served in terms of the Act;
 - iv) Rent arrears of £11,455.00 have accrued, causing financial detriment to the Applicants;
 - v) The Respondent's present whereabouts are unknown;
 - vi) The Applicants are unable to access the Property lawfully to inspect its condition.

Issue for the Tribunal.

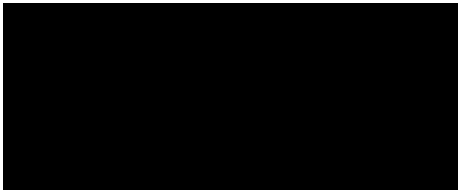
7. Having found that the statutory provisions for the termination of the tenancy have been complied with, the issue for consideration by the Tribunal is to determine if it is reasonable to grant the Order.

Decision and Reasons for the Decision

8. The Tribunal had regard to the whole circumstances of the matter took the view that extent of the Respondent's breach is causing serious detriment to the Applicants and accordingly found that it is reasonable to grant the Order sought.

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.



Legal Member/Chair

27 January 2023

Date