



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/20/2033

Re: Property at 17, Tommy Armour Place, Carnoustie, DD7 7TQ (“the Property”)

Parties:

Mr Michael Robertson, c/o 33, Meadowside, Dundee, DD1 1DJ (“the Applicant”)

Mr Malcolm Thom, 17 Tommy Armour Place, Carnoustie, DD7 7TQ (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Application for a possession order for the property be refused.

The Tribunal decision was unanimous.

Background

1. This is an application in terms of Rule 65 of the Tribunal Rules which relates to a possession order in relation to a short assured tenancy. The application was lodged with the Tribunal on 20 September 2020 and accepted by the Tribunal on 21 October 2020. A case management discussion was fixed for 27th November 2020 at 2pm.

2. At the case management discussion on 27 November 2020 the Applicant was represented by Mr Campbell of Campbell Botha solicitors, Dundee and the Respondent Mr Malcolm Thom attended and represented himself. At the case management discussion there was no dispute between parties that they had entered

into a tenancy agreement at the property and that the Respondent had given notice to quit the property by email dated 6 March 2020 with the date of termination of the tenancy of 1st June 2020. This email was acknowledged and the notice to quit accepted by Martin & Co, letting Agents acting on behalf of the Applicant landlord. As at the date of the case management discussion and subsequent Hearing the Respondent was still in occupation at the property.

3. The Respondent Mr Thom advised that he suffered from mental health problems and that he was anxious regarding the proceedings.

4. The Respondent's position was that after he had emailed the notice to quit, there had been an e mail exchange between dates in April and May 2020, before the date at which he had said he would leave the property in his notice to quit, between him and Mr Ian Burness, the property manager at Martin & Co, the letting agents dealing with the property on behalf of the landlord. The Respondent's view was that there was an agreement reached in these emails allowing him to stay on as a tenant in the property beyond 1 June 2020. He took the view that this email exchange had effectively rescinded his notice to quit. He also advised that he never received any formal notice advising him that a possession order would be requested, only a letter from solicitors acting on behalf of the landlord dated 4 September 2020.

5. Although there was no dispute that notice to quit had been given and accepted and certain emails had passed between the Respondent and the letting agent in April and May 2020, on behalf of the Applicant, Mr Campbell did not accept the tenancy had continued and he pointed to an e mail of 4 May 2020 sent by the letting agents to the Respondent and indicated that his interpretation of this email was that the end of the tenancy date referred to in the email remained the date at which the Respondent had given as the date when he would leave the property ie 1st June 2020.

6. At the case management discussion on 27th November 2020 the Respondent took issue with the terms of the Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 which had an incorrect first name for him. The Applicant's representative had sent a letter to Angus Council asking them to correct the error in the notification. After discussion, the Respondent accepted that a valid notice in terms of Section 11 had been intimated to the relevant local authority.

7. The Tribunal fixed a Hearing as there appeared to be no agreement between parties on certain issues which were relevant to the consideration of the application. The Tribunal noted the first issue to be whether the e mail correspondence between the Respondent and the letting agent Martin & Co on behalf of the Applicant rescinded the notice to quit and acceptance by the landlord and allowed the tenancy to continue after 1 June 2020. The second issue related to the lack of service of an AT6 Form as none had been served in the case. The question arose as to whether the Tribunal should waive its requirement, and in considering whether it was reasonable to waive the requirement for the service of the Form AT6, whether the Tribunal should take account of the terms of the Coronavirus (Scotland) Act 2020 as amended, which had extended the period of notice to be given in terms of notice of proceedings for possession for the time period relevant to this application to a period of six months.

8.A Hearing was fixed for 15 January 2021 at 10am and the Tribunal issued a direction to parties requiring them to advise of any additional productions for the Hearing and details of witnesses who were to be called. Mr Campbell on behalf of the Applicant intimated that Mr Ian Burness, property manager at Martin & Co, the letting agent which dealt with the tenancy would give evidence on behalf of the Applicant. No witnesses were intimated on behalf of the Respondent. At the Hearing the Tribunal had sight of the following documentation: – the application, a copy of the tenancy agreement, Form AT5, emails between the Respondent and a letting agent on behalf of the Applicant, a letter sent by the Applicant's representative dated 4 September 2020, a track and trace receipt, a Notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 together with an email intimating this notice to the relevant local authority and a subsequent letter to the local authority concerning the notice.

9. On behalf of the Respondent the tribunal had sight of email representations made by the Respondent and emails between the Respondent and the letting agent. During the Hearing reference was made to further emails in May 2020 between the letting agent and the Respondent and the Tribunal adjourned in order to have sight of these. Both parties submitted the email exchanges by email during the Hearing and these were referred to by parties.

Hearing

10. At the Hearing the Applicant was again represented by Mr Campbell of Campbell Both solicitors and the respondent Mr Thom represented himself. One witness was called on behalf of the Applicant, Mr Ian Burness, property manager at Martin & Co letting agents who had dealt with the property on behalf of the applicant. The Respondent Mr Thom gave evidence on his own behalf.

11. Mr Burness gave evidence to the effect that he had received a notice to quit by email from the Respondent Mr Thom dated 6th March 2020 and this had been accepted by him in an e mail of 9th March 2020. In his email accepting the notice to quit Mr Burness indicated that it had been agreed that the tenancy would end 1 June 2020 and that an inspection of the property would take place in May. Mr Burness said that that was their hope that Mr Thom would leave as of 1st June. He was asked if Mr Thom had been offered a new tenancy after the email exchanges in April and May 2020 and confirmed that he had not. He also confirmed that Martin & co had received nothing from the Respondent Mr Thom to say that he was withdrawing his notice to quit.

12. Mr Burness was asked regarding the email exchanges which appeared to have commenced with an email from him to the Respondent Mr Thom dated 27 April 2020 in which he indicated that the landlord had asked him to find out if he, the Respondent was intending to move as originally intimated. Mr Thom had responded to that email indicating essentially that because of the "lockdown" and the rental market being "on virtual lockdown", if the landlord agreed, it would be in "both our interests to wait this out and then arrange another end date to suit us both". In that email the Respondent

asked for confirmation that this was acceptable and on 4 May 2020 Mr Burness had responded by email to the Respondent indicating that he had advised the landlord that the Respondent was unlikely to be able to stick to the original timetable and “given our current circumstances he accepts the situation”. That e mail also indicated that the landlord was anxious that the house and garden were returned to an acceptable condition before the end of the tenancy and expressed the hope that the Respondent was able to use his time at home to this effect. Mr Burness’s position in relation to this email exchange was that it had never been his intention in querying if Mr Thom could move out at the agreed date, to give the impression that he could stay longer. He referred to the email exchanges as being on a hypothetical basis at that point. When asked why he had made the e mail approach to the Respondent he said that he was trying to be kind. He was aware of the Respondent’s mental health problems. When asked if the email exchange could have given Mr Thom the impression that he could stay longer, he accepted that that was one interpretation of the emails. He said that he had been working at home at that time and that there had been a further exchange between them by e mail in the middle of May. At this point the Tribunal adjourned in order to have sight of these emails as these had not been lodged.

13. The emails referred to above reflected that on 13 May 2020 Mr Martin had emailed Mr Thom seeking an assurance on behalf of the landlord that the house and garden would be returned to a presentable state and that this matter was in hand. Mr Thom had responded saying that when he had a move out date, he had a carpet cleaner and would use it and that he was putting things away for the eventual move. The response to this from Mr Burness dated 30 May 2020 simply indicated that Mr Thom’s response had been reassuring. There was no mention in this series of emails of any adherence to the initial end of tenancy date of 1 June 2020.

14. Mr Burness confirmed that there was no further communication with Mr Thom after this exchange of emails in May. He said it would have been the Dundee office who would have dealt with any remaining matters but he had checked the system was no sign of any further communication. In particular he agreed that there was no communication to Mr Thom of any inspection date around 1 June 2020 or any agreement or any communication to arrange an end of tenancy checklist to be completed. He referred to an earlier inspection and said there had been an issue about gaining entry to the property to inspect it but also confirmed that no application had been made to the first-tier Tribunal in order to have an inspection order granted to access the property. He indicated that Mr Thom was an excellent tenant apart from issues regarding the condition of the house and garden but also accepted that these issues were not relevant to the matters before the tribunal. He confirmed that Mr Thom remained in occupation of the property and was still paying rent.

15. Mr Burness advised the Tribunal that the matter had been referred to a solicitor as the landlord was becoming concerned about the state of the property. It appeared that the only correspondence sent to Mr Thom on the matter of a possession order was the solicitor’s letter of 4 September 2020 requesting that he leave the property by 18 September 2020.

16. Mr Thom gave evidence on his own behalf. He accepted that he had emailed Mr Burness in March 2020 indicating his intention to leave the property and had received an acceptance of this email with an agreed end of tenancy date 1 June 2020.

17. Mr Thom referred to the exchange of emails which Mr Burness had initiated on 27th of April 2020. He said that he had construed this as an offer for him to remain in the property beyond 1 June 2020 given the lockdown situation at the time. He had emailed back indicating that he wanted to stay on and that he thought it was in everyone's interest for a later date to be agreed. He referred to Mr Burness's response in which he said that Mr Burness had indicated that he advised the landlord that Mr Thom would be unlikely to be able to stick to the original timetable given "our current circumstances" and the landlord had accepted the situation. Mr Thom's view was that this exchange had rescinded the requirement for him to leave on 1 June 2020. With reference to the email exchanges on 13 May 2020 whereby the condition of the property was queried, he pointed to his own response where he said that he was waiting for a move out date and an "eventual" date and that he would be cleaning the carpets at the property when he had a date. He pointed to the terms used in his email as proof that his understanding was that the date of the move had been put off to a date to be agreed later. He noted that there had been no response to this suggesting that 1 June date was still in place.

18. Mr Thom's position was that he had heard nothing further after these emails and the next indication that he was expected to leave the property came in a letter of 4 September 2020 from the Applicant's solicitor. This letter he said was received by him just a few days before the date by which he was to vacate the property on 18 September. The track and trace receipt lodged by the Applicant's representative suggested that this had been delivered on 9 September 2020. Mr Thom was adamant that he had received this just a few days before the deadline to remove from the property on 18 September 2020. He did not feel it was fair that he had received such little notice when he felt that his notice to leave the property as at 1 June 2020 had effectively been cancelled by the email exchange in April and May.

19. Both Mr Campbell on behalf of the Applicant and Mr Thom made representations to the Tribunal at the end of the evidence. Mr Campbell submitted to the Tribunal that there had been a clear notice to quit given by Mr Thom which had been accepted and the tenancy had come to an end with effect from 1 June 2020. He indicated that after that date the Respondent had become a user in occupation and on that basis rent had been accepted. No new tenancy agreement had been entered into or offered. He said that there was nothing in the email exchanges which changed the position and the Applicant was entitled to a possession order. Mr Campbell did not accept the statement made by Mr Burness during his evidence when he accepted that one interpretation of the email exchange in April and May 2020 between the parties was that Mr Thom could stay longer at the property. As far as the lack of Form AT6 was concerned he said that this was not necessary and pointed to the letter of 4 September 2020 from his firm which set out that the Respondent was to leave the property. He also pointed to the background in that it was the Respondent who had first given notice to quit as far back as March 2020. Mr Campbell asked the Tribunal to find that it was

reasonable for the possession order to be granted in the circumstances and to waive the requirement for a Form AT6 which had not been served to give notice of the intention to raise proceedings for a possession order.

20. Mr Thom on his own behalf indicated to the Tribunal that as far as he was concerned his notice to quit had effectively been rescinded in terms of the email exchange which had taken place in April and May 2020 and that he was clearly of the view that he was being allowed to stay on at the property as a tenant during the period of the lockdown until such time as a new date could be agreed between the parties. He intimated that he thought it was unfair that no formal notice advising him that the landlord intended to take proceedings to recover the property had been given to him. He said that the first he had known that the application would be made was just a few days before the date by which he was required to move out according to the letter ie 18th September 2020. He asked the Tribunal to refuse the possession order.

Participation Issues arising during the Hearing

21. The Applicant's representative dialled into the teleconference Hearing from the solicitor's office where he is based. He had advised the Tribunal in advance of the Hearing that he had arranged to meet the witness Mr Burness at his office prior to the commencement of the Hearing. He had confirmed to the Tribunal Chair at the start of the hearing that this arrangement allowed both he and the witness to take part in the call safely with regard to Covid 19 public health requirements such as social distancing. He had agreed a Tribunal request that Mr Burness would not be in the room when the Hearing commenced and would only come into the room when his evidence was required. The Tribunal teleconference Hearing started and both Mr Campbell and the Respondent were able to engage by telephone with the Tribunal when preliminary matters were discussed. The Tribunal chair indicated to parties at the start of the Hearing that if at any stage they could not hear they should indicate this to the Tribunal.

22. When Mr Burness entered the room to give evidence, the Tribunal could speak with him and he indicated that the speaker button on the phone in the room in which both he and Mr Campbell were located was not working. He gave evidence to the Tribunal and was questioned by Mr Campbell, the Respondent, and the Tribunal members. When the Tribunal adjourned to have parties submit the email exchange of 13 May 2020, the Respondent had indicated that although he had finished cross-examining Mr Burness he wished to ask him further questions in relation to these emails which had just been produced. The Tribunal allowed this. When the Tribunal Chair reverted to the Applicant's representative Mr Campbell to ask if he wished to come back on the questions asked on the recently provided emails, Mr Campbell indicated that he had not heard the questions asked by the Respondent nor any questions asked by the Tribunal of the witness. At this point the Tribunal chair asked him if he felt he had been able to effectively represent his client during the Hearing and he indicated that he felt he had been able to do that "reasonably so". The Tribunal Chair then asked him if he wished to have the Respondent's questions repeated back to him and advised him of the one question which had been asked by the Tribunal Chair of the witness at that time. Mr Campbell indicated that he was satisfied the Tribunal's question was one

he felt had been covered earlier and he declined the opportunity to have the questions asked by the Respondent repeated back to him indicating that the issues had been earlier covered.

23. The Tribunal continued with the hearing and as stated above at the outset had advised that any party who could not hear the proceedings should advise the Tribunal of that fact. Until Mr Campbell indicated his difficulty towards the end of the evidence of the witness he had called, there had been no issue regarding inability to hear proceedings made known to the Tribunal. There was no suggestion made by him that he, Mr Campbell did not hear all of the evidence, and he cross examined the Respondent during his evidence and made representations to the Tribunal on behalf of the Applicant. The Tribunal was of the view that that parties had been able to adequately participate in the teleconference call and allowed the Hearing to continue.

Findings in Fact

24. The parties entered into a short assured tenancy at the property with effect from 1 August 2017.

25. This tenancy agreement was for a period of 12 months and continued until 1 August 2018. Thereafter the agreement stated that the tenancy would continue on a monthly basis until brought to an end by either party serving written notice.

26. On 6 March 2020 the Respondent emailed Mr Ian Burness, office manager at Martin & Co, the letting agents dealing with the property on behalf of the landlord explaining why he wished to leave the property. He gave notice in that email that he wished to give notice to terminate the tenancy as of 1 June 2020.

27. This Notice to quit was valid in its terms, gave sufficient notice to end the tenancy and the end date given coincided with an end date on the tenancy agreement which was by that time running on a month to month basis.

28. By email of 9 March 2020 Mr Ian Burness from the letting agents acting on behalf of the Applicant confirmed that the tenancy would end on 1 June 2020 and that an inspection would be carried out in early May 2020.

29. On 27 April 2020 Mr Burness, on behalf of the Applicant contacted the Respondent asking if he was still intending to move as originally intimated, indicating that he realised that this may now not be an option for the Respondent.

30. The Respondent replied to that e mail indicating that given the "lockdown" and the fact that it appeared that it was not going to end any time soon, that if the landlord agreed he thought it would be in both their interests to "wait it out" and arrange another end date to suit them both. In that email the Respondent asked for confirmation that this was acceptable.

31. On 4 May 2020, around a week later, Mr Burness responded by email to the Respondent, saying that he had advised the Applicant that the Respondent would be unlikely to be able to stick to the original timetable given "our current circumstances"

and indicating that the landlord accepted the situation. This email indicated that the landlord was anxious that the house and garden be returned to an acceptable condition before the end of the tenancy.

32. There was no further communication between the letting agent Martin & Co (or anyone else on behalf of the Applicant) and the Respondent after the emails of 13 May 2020 and the next communication was the Applicant's solicitor's letter in September 2020.

33. There was no contact by the letting agents with the Respondent near to the initial end of tenancy date of 1 June 2020 intimating that there would be an end of tenancy meeting to complete a checklist or an end of tenancy inspection at that date.

34. No inspection of the property took place in early May 2020 or in June 2020.

35. The Respondent was of the view after the exchange of emails in April and May 2020 between himself and Mr Burness of Martin & Co that his notice to quit with a tenancy end date of 1 June 2020 had been rescinded and that his tenancy continued.

36. Mr Burness of Martin & Co agreed in his evidence that it was possible to interpret the e mail exchange as an agreement to allow the Respondent to stay at the property beyond 1 June 2020 although he said this was not his intention.

37. The Respondent continues to live at and pay rent for the property and the rent has been accepted.

38. No new tenancy agreement has been provided to the Respondent by the Applicant.

39. The original tenancy agreement at the property continued after 1st June 2020 and the notice to quit the property on 1 June 2020, submitted in March 2020 by the Respondent was effectively rescinded by means of email exchanges between letting agents acting for the Applicant and the Respondent, whereby it was agreed given the "lockdown" situation at that time that the Respondent was unlikely to be able to keep to the original moving out date and that his was accepted by the landlord.

40. By letter of 4 September 2020 the Applicant's solicitors wrote to the Respondent indicating that because he had failed to vacate the property and give back his keys by 1 June 2020 that he had until 18 September 2020 to return the keys and if he did not do so an application would be made to the first-tier Tribunal for recovery of possession of the property.

41. The Respondent received this letter just a few days before the deadline given to leave the property of 18 September 2020.

42. The Applicant's representative served a notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 on Angus Council by letter of 14 October 2020. This notice contained the wrong first name for the Respondent. The Applicant's

representative later emailed Angus Council requesting that the notice be rectified to reflect the correct name for the Respondent.

43.No Form AT6 in terms of section 19 of the Housing (Scotland) Act 1988 was served on the Respondent in terms of this application.

Reasons for decision

44.The tribunal determined that this application for a possession order be refused.

45.The application was made in terms of Ground 10 of schedule 5 of the Housing (Scotland) Act 1988. Ground 10 is a discretionary ground and can only be satisfied if the following conditions are fulfilled –

- (a) the tenant has given notice to quit which has expired,
- (b) the tenant has remained in possession of the whole or any part of the house and
- (c) proceedings for the recovery of possession have begun not more than six months after the expiry of the notice to quit and
- (d) the tenant is not entitled to possession of the house by virtue of a new tenancy.

46.In relation to this application there was no dispute that by virtue of an email of 9 March 2020 the Respondent had given notice to end the tenancy with effect from 1 June 2020. This appeared to be a valid notice to quit in that it gave a termination date in line with the end date of the monthly tenancy and sufficient notice of termination was given. There was also no doubt that the notice to quit had been accepted on behalf of the landlord.

47.However the Tribunal could not proceed to consider the notice to quit without considering the communication between the parties after it was sent. It was notable that before the expiry of the notice period i.e. before the agreed end of tenancy date of 1st June 2020, the Applicant's representative, Mr Burness, the property manager at the letting agency emailed the Respondent essentially asking if he could still move out at the agreed date making oblique reference to the lockdown circumstances which pertained in the spring and early summer of 2020 and raising the question of whether he would have the option to move out given the circumstances. The Respondent immediately replied indicating that he had been intending to email and given the lockdown situation he felt it was in both his interests and that of the landlord to as he put it to 'sit it out' until lockdown had ended and to agree a new date for him to leave. The response to that from Mr Burness on behalf of the Applicant was, around a week later, to email saying that he had advised the landlord that it was unlikely that the Respondent would be able to stick to the original timetable given "our current circumstances" and that the landlord accepts the situation. This email continued indicating that the landlord was anxious the house and garden return to an acceptable condition before the end of the tenancy.

48.At the hearing Mr Burness indicated that he was trying to be kind to the Respondent and his emails were essentially setting out a hypothetical situation. He denied that these emails amounted to cancellation of the notice to quit. He did however accept that this was one interpretation of the exchange. The Tribunal took the view that a

reasonable interpretation of this exchange was that the landlord, given the lockdown in the spring and early summer 2020 and all that entailed, was essentially inviting the Respondent to stay on longer at the property as a tenant, anticipating that it would be hard for him to find somewhere else to stay at that time, and that ultimately the Respondent's suggestion to allow the lockdown to end and agree a move out date later was accepted on behalf of the Applicant. Whilst this may not have been Mr Burness's intention in emailing the Respondent, the Tribunal's view that this was an obvious and reasonable conclusion to draw from the exchange. The Tribunal did not accept that this email was part of a hypothetical situation. It was clear that Mr Thom interpreted these emails as giving him permission to stay on longer and effectively rescinding his earlier notice to terminate the tenancy as of 1st June 2020. The Tribunal took the view that what appeared to confirm this exchange was the fact that although there were further emails in May 2020 regarding the condition of the property, which were responded to by Mr Thom talking about the fact that he was waiting for a move out date and referring to an eventual move, there was no communication on behalf of the Applicant to the Respondent fixing a tenancy moving out meeting or a time to complete a checklist and arranging for the keys to be returned at the original tenancy end date of June 1st, 2020. This lack of communication or action by the letting agent to make any arrangements regarding the Respondent moving out as at June 1st served to underline the mail exchange which the letting agent had initiated, and suggested that they too regarded that the tenancy was to continue after June 1st 2020. The Tribunal took the view that in terms of the email exchanges between 27 April and 4 May 2020 the Applicant's representative had effectively agreed to the rescinding of the notice to quit with effect from June 1st 2020.

49. Given the Tribunal's view of the e mail exchange and subsequent lack of communication or action by the letting agent, the Tribunal took the view that the tenancy had not ultimately been terminated by a valid notice to quit. As this is an essential prerequisite for a possession order in terms of Ground 10 of the 1988 Act, the Tribunal therefore took the view that the grounds had not been met in this case as the Notice to Quit had been rescinded by agreement.

50. It should be noted that the Applicant's representative's view was that the tenancy had been terminated with effect from 1 June 2020 but with the Respondent having continued to occupy and pay rent, Mr Campbell submitted that he was therefore a user in occupation of the property. The Tribunal did not accept that view and took the view that if the notice to quit had not been rescinded, the contractual tenancy would have been replaced by a statutory tenancy, allowing the Application to be made in terms of Ground 10 of the 1988 Act.

51. The Tribunal considered that even if the conditions Ground 10 of the 1988 Act had been satisfied it would not be minded to use its discretion to grant the possession order. The parties themselves had referred to the circumstances which existed shortly after the Respondent had given his notice to quit in March 2020 with Covid 19 restrictions and lockdown. Given the exchange of e mails in April and May 2020 in which the landlord, via the letting agent, conveyed his acceptance that the Respondent would be unlikely to be able to move out at the date given in the notice to quit and the lack of communication with the Respondent after 13 May 2020, when he reasonably believed that his tenancy was continuing, and the continuing silence of the letting

agents who appeared not to communicate with him after that date, together with the letter received by him just a few days before the requirement to leave on 18 September 2020, the Tribunal would not take the view that it was reasonable to grant the order in these circumstances. The letting agents had focussed after April 2020 on the state of the property being improved and had not acted in any way which suggested anything other than that the Respondent was being permitted to stay. At no time was he advised that his status had changed and rent payments were accepted after 1 June 2020.

52. For the sake of completeness the Tribunal also considered the issue of the fact that no AT6 Form was served in this case and considered whether it should waive the requirement for this notice. Taking into account all the circumstances as set out at the hearing and in particular the way in which the Respondent was apparently allowed to remain in the property after the initial tenancy termination date, and the lack of communication between May 13th and September 2020, the Tribunal did not feel it was reasonable to dispense with service of an AT6. The Tribunal noted that any AT6 served for this application would have been subject to the terms of the Coronavirus (Scotland) Act 2020 as amended and would have required a minimum notice of six months to be given. Effectively in this case the Respondent was given just a few days in terms of the letter he received from the Applicant's solicitor. Although the Applicant's solicitor's letter dated 4 September 2020 set out the history of the matter, against the background of the email exchanges between the Respondent and the letting agents and the lack of communication between May and September 2020 it does not appear reasonable to the tribunal that the requirement for an AT6 should be dispensed with in the context of this application. Given the circumstances here it seemed particularly important that the Respondent would have had formal notice of the intention to raise proceedings for possession order, his tenancy having been allowed to continue with no agreed end date after June 2020.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Application for a possession order for the property be refused.

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.

Valerie Bremner

Legal Member/Chair

Date 15.1.21