



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 of the Housing (Scotland) 1988 (“the Act”) and the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/19/3143

Re: Property at 48 Orissa Drive, Dumbarton, G82 1AD (“the Property”)

Parties:

Mr Daniel Harrison, 29 Denny Road, Dumbarton, G82 1JT (“the Applicant”) per his agents Friends Legal, 5th Floor, The Centrum Building, 38, Queen Street, Glasgow G1 3DX (“the Applicant’s Agents”)

Mr Shaun Wane and Mrs Amanda Wane, 48 Orissa Drive, Dumbarton, G82 1AD (“the Respondents”)

Tribunal Members:

Karen Moore (Legal Member)

Decision (in absence of the Respondents)

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

Background

1. By application dated 1 October 2019 and comprising an application form, copy Short Assured Tenancy agreement, copy Notice to Quit in the correct format with evidence of service and copy Notice in terms of Section 11 of the Homelessness etc. (Scotland) Act with evidence of intimation (“the Application”) the Applicant’s Agent on behalf of the Applicant applied to the Tribunal for an order for possession under Section 33 of the Act and Rule 66 of the Rules. A legal member of the Tribunal with delegated powers to do so, accepted the Application in terms of Rule 9 of the Rules and a Case Management Discussion (“CMD”) was fixed for 23 December 2019 at the Glasgow Tribunal Centre, 20 York Street, Glasgow, G2 8GT. The CMD was intimated to the Parties. The CMD was postponed at the request of the

Respondents and a fresh CMD was fixed for 6 February 2020 at the said Glasgow Tribunal Centre.

2. Shortly, prior to the CMD, the second-named Respondent emailed the Tribunal to advise that the Respondents had secured alternative accommodation and would vacate the Property on 6 February 2020. She indicated that the Respondents would not attend the CMD and hoped that it would be postponed to allow the Respondents to remove from the Property.

CMD

3. The CMD took place on 6 February 2020 at the said Glasgow Tribunal Centre. The Applicant was not present and was represented by Ms. Rachel Thomson of the Applicant's Agents. Neither Respondent was present.
4. The Tribunal advised Ms. Thomson of the second-named Respondent's email to the Tribunal and advised Ms. Thomson that the Tribunal was of a mind to proceed in the absence of the Respondents on the basis that if an Order were granted, it would not come into force for 30 days, and so, if the Respondents removed from the Property during that time, the Respondents could apply to have the Order recalled. Accordingly, there were not prejudiced. Ms. Thomson advised that her motion was to proceed and for an Order to be granted. Therefore, the Tribunal proceeded with the CMD.

Findings in Fact

5. From the Application, the Tribunal accepted that there is a Short Assured Tenancy between the Parties that the statutory procedure set out in Section 33 of the Act had been followed.

Decision and Reasons for Decision

6. Having found that the statutory procedure set out in Section 33 of the Act had been followed. and having regard to, firstly, Section 33 of the Act which states that an order must be granted and, secondly, Rule 17 of the Rules which allows that the Tribunal may do anything at a CMD which it may do at a hearing, including making a decision, the Tribunal made an Order for possession.

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

6 February 2020

Date