

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/19/3662

Re: Property at 435 Paisley Road West, Flat 0/1, Glasgow, G51 1QJ (“the Property”)

Parties:

Mr Harpreet Bedi, 46 Old Slade Lane, Iver, Bucks, SL0 8DR (“the Applicant”)

Mr Stephan McLean, 435 Paisley Road West, Flat 0/1, Glasgow, G51 1QJ (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member)

Decision

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

BACKGROUND

1. By lease dated 28 May 2015 the Applicant let the Property to Elizabeth Mclean and Stephen McLean. A form AT% had been served prior to the lease being signed and the lease was, therefore, a short assured tenancy;
2. During 2019 Elizabeth McLean passed away leaving Stephen McLean as the only tenant. Thereafter, rent payments ceased and significant arrears of rent accrued;
3. The Applicant, through his agent, served:-
 - a) A notice to quit;
 - b) A separate notice which purported to be under both s19 and 33 of the Housing (Scotland) Act 1988. This notice, however, did not satisfy the terms of either section;
 - c) A notice in terms of s11 of the Homelessness etc. (Scotland) Act 2003;
4. The Tribunal had previously issued a Direction requiring further information in relation to the basis of the application and the grounds of eviction. Unfortunately, these issues were not

addressed. No further notices were lodged. No application was made to vary the basis upon which this application was made;

THE CASE MANAGEMENT DISCUSSION

5. The Applicant did not participate in the Case Management Discussion but was represented by Mrs S Wolda, of Contempo Property, Paisley;
6. The Respondents did not participate in the Case Management Discussion. The Tribunal had forwarded to the Respondents a letter confirming the date and time of the Case Management Discussion, together with all necessary details to enable the respondents to participate. In the circumstances the Tribunal, being satisfied in terms of Rule 24 of The First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the “FTT Rules”) that the Respondent had received reasonable notice of the same determined that it was appropriate to proceed in accordance with Rule 29 of the FTT Rules;
7. The Tribunal raised the issue of its previous direction requesting further information in relation to the grounds of eviction and notices served. The Applicant’s representative indicate that there appears to have been a misconception that the notices lodged were sufficient. She accepted in the course of discussion, however, that the notices did not serve their intended purpose as a matter of law;

FINDINGS IN FACT

8. The Tribunal found the following facts to be established:_
 - a) By lease dated 28 May 2015 the Applicant let the Property to Elizabeth Mclean and Stephen McLean. A form AT% had been served prior to the lease being signed and the lease was, therefore, a short assured tenancy;
 - b) During 2019 Elizabeth McLean passed away leaving Stephen McLean as the only tenant. Thereafter, rent payments ceased and significant arrears of rent accrued;
 - c) The Applicant, through his agent, served:-
 - i. A notice to quit;
 - ii. A separate notice which purported to be under both s19 and 33 of the Housing (Scotland) Act 1988. This notice, however, did not satisfy the terms of either section;
 - iii. A notice in terms of s11 of the Homelessness etc. (Scotland) Act 2003;

9. The notice purporting to be in terms of both s19 and s33 of the Housing (Scotland) Act 1988 did not satisfy the terms of either section.

REASONS FOR DECISION

10. The necessary legal requirements to terminate a short assured tenancy in terms of s19 of the Housing (Scotland) Act had not been met;
11. The necessary legal requirements to terminate a short assured tenancy in terms of s33 of the Housing (Scotland) Act had not been met;

DECISION

The application was dismissed.

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.

V Crawford

Legal Member

31 July 2020

Date