



**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/22/3072**

**Re: Property at 14 Muirhill Court, Hamilton, ML3 6DR (“the Property”)**

**Parties:**

**Mrs Janice Murphy, 3 Chateau Grove, Hamilton, ML3 7DS (“the Applicant”)**

**Ms Corinne Lynch, Mr Sean Lynch, 14 Muirhill Court, Hamilton, ML3 6DR (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Elizabeth Williams (Ordinary Member)**

**Decision (in absence of the Respondents)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.**

**Background**

1. The Applicant submitted an application under Rule 65 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondents from the property.
2. By decision dated 1 November 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 11 November 2022. The Tribunal intimated the application to the parties by letter of 13 December 2022 and advised them of the date, time and conference call details of today’s CMD. In that letter, the parties were also told that they

required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 3 January 2023. No written representations were received by the Tribunal.

### **The case management discussion**

4. The CMD took place by conference call. The Applicant was represented by Mr Macdonald, solicitor. The CMD proceeded in the absence of the Respondents. The Applicant's representative explained that since December 2021, half of the rental charge has been paid each month, resulting in the arrears of rent increasing to £5,000. There has been no contact from the Respondents and neighbours have reported that nobody has been seen at the property for approximately 1 year. There is no current gas or electricity supply to the property. The property factors reported to the Applicant that there is a foul smell emanating from the property, but the source of that smell has not been investigated. It was submitted that it was reasonable in all of the circumstances to grant the order for eviction.

### **Findings in Fact**

5. The parties entered into an assured tenancy, the initial term of which was 24 March 2016 to 23 September 2016.
6. Rent was payable by the Respondents at the rate of £550 every 28 days.
7. The Applicant's representative served a Notice to Quit and the Notice in terms of Section 19 of the Housing (Scotland) Act 1988 on the Respondents by recorded delivery on 8 August 2022.
8. As at the date the Notices were served, the Respondents were in arrears of rent in excess of 3 months.
9. As at the date of this case management discussion, the Respondents were in arrears of rent in excess of 3 months.

### **Reason for Decision**

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondents did not lodge written representations, nor did they participate in the CMD. The Respondents' circumstances were unknown to the Applicant. Information from neighbours

suggested that the property is vacant. The Tribunal was satisfied that it was reasonable to grant the order evicting the Respondents from the property.

### **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.**

N. Irvine

\_\_\_\_\_  
**Legal Member/Chair**

\_\_\_\_\_  
**9 February 2023**  
**Date**