



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**

Case reference FTS/HPC/RE/22/1492

**Parties**

**Mrs Julie Paszkiewicz (Applicant)**

**Mrs Elizabeth McDonald (Respondent)**

**Mr Adrian Paszkiewicz (Applicant's Representative)**

**9 Kenmuiraid Place, Bellshill, ML4 2AL (House)**

**Tribunal Member: Jacqui Taylor (Legal Member)**

The Tribunal rejects the application by the Applicant under section 28 of the Housing (Scotland) Act 2006 requesting the Tribunal to consider offering assistance in exercising the Landlord's right of entry to the Property, received by the Tribunal administration on 18<sup>th</sup> May 2022.

The email from the Applicant dated 9<sup>th</sup> June 2022 to the Tribunal administration was in the following terms:

*'We didn't grant a lease. We were told by housing that the person who is in our home (Mrs E McDonald) needed a notice to quit so she could apply for homeless accommodation. We did as the housing requested only to find out the notice to quit was considered by housing as a lease. I sent the notice to quit through messenger as Mrs Elizabeth McDonald requested, it was only signed by me and not the so called tenants. so is it a legal document then? This is the only paperwork I have regarding a so called lease which I am attaching again. I never had any intentions of letting my home to anyone. Mrs Elizabeth McDonald was only supposed to be keeping an eye on my home for a few months while I was abroad. She also did not pay me any rent.'*

*Rankin, The Law of Leases in Scotland (1916 Page 1 states that 'the essence of a tenancy means that one party, the tenant, has temporary use of the property of another, the landlord, in exchange for a sum of money paid by way of rent.'*

As there is no agreement between the parties regarding payment of rent there is no lease. As there is no lease between the parties the Applicant is not a landlord and consequently he is not entitled to apply to the Tribunal for assistance in exercising a landlord's right of entry under section 28A of the Housing (Scotland) Act 2006.

Consequently, the Tribunal believe that it would not be appropriate to accept the application and reject the application in terms of rule 8 (1)(c) of the Tribunal Rules.

.....J Taylor.....Legal Member    Date: 21<sup>st</sup> June 2022