

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 and Section 18 of the Housing (Scotland) Act 1988.

Chamber Ref: FTS/HPC/EV/24/1691

Re: Property at 13 Broomlands Road, Carbrain, Cumbernauld, G67 2PU (“the Property”)

Parties:

Mr Manish Khanna, residing at 2 Dullatur Road, Cumbernauld, G68 0AF (“the Applicant”) and

K. Property, 18-20 Baronhill, Cumbernauld Village, Glasgow, G67 2SB (“the Applicant’ Representative”) and

Mr Stephen Wright, residing at 13 Broomlands Road, Carbrain, Cumbernauld, G67 2PU (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

A. Lamont - Ordinary Member

Decision:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant the Application.

Background and Case Management Discussion on 27th January 2025

1. This is an Application brought in terms of Rule 66 (Application for order for possession upon termination of a short-assured tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (“the 2017 Rules”).
2. The Applicant Mr Khanna’s Representative had provided the Tribunal, in the Application, with copies of the parties’ short assured tenancy agreement, Form

AT5, Notice to Quit (“NTQ”) and Sections 33 and 11 Notices with relevant Executions of Service. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988 (“the 1988 Act”), and the procedures set out in the Act had been correctly followed and applied.

3. Sheriff Officers had effectively served copies of the Application papers, Guidance Notes and notification of the CMD on the Respondent Mr Wright.
4. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 10.00am on 27th January 2025. The Applicant’s Representative’s Mrs D. Cramb and the Respondent Mr Wright attended.
5. Mrs Cramb referred to the Application and stated that, for financial reasons, Mr Khanna wishes to recover possession of the Property and sell it. She said that Mr Wright has been an excellent tenant and that she and him have a very good relationship. She stated that she understands that Mr Wright has been told by his local authority, to whom he has applied for a tenancy, that they await the grant of an eviction order so as to assist him. Mrs Cramb also said that the Property has several floors and a number of stairs and she understands it is no longer suitable for Mr Wright given his health conditions. Mrs Cramb asked for the Application for an eviction order to be granted.
6. Mr Wright agreed with what had been had been said by Mrs Cramb. He stated that he has been ready to move out of the Property for some 10 months, following service of the NTQ last year. He said that he is now 66 years of age and due to his mobility problems the three floors, with stairs, in the Property are not ideal. Mr Wright further stated that he had spoken with his local authority’s housing department very recently and they had agreed that he would e-mail them a copy of the any eviction order as soon as it was sent to him. Mr Wright gave the Tribunal’s clerk permission to e-mail a copy eviction order to him for quickness.

Statement of Reasons

7. In terms of Section 33 of the 1988 Act, the Tribunal shall make an order for possession of a house let on a tenancy if:

- (a) the short assured tenancy has reached its ish;
- (b) tacit relocation is not operating;
- (c) no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
- (d) the landlord has given to the tenant notice stating that he requires possession of the house.

8. The Tribunal considered all of the available evidence and the submissions of Mrs Cramb and Mr Wright. The Tribunal found in fact that all of the documentation regarding termination of the parties’ tenancy agreement had been validly served on Mr Wright. They found that Mr Wright is actively

seeking to move out of the Property. The Tribunal further found in fact that both Mr Khanna and Mr Wright wish an eviction order to be granted. Having made such findings in fact the Tribunal found in law that the parties' tenancy agreement had been lawfully brought to its end in terms of the relevant legislation and that it was reasonable to grant an eviction order. The Tribunal also decided that it was reasonable to grant the eviction order with a deferred enforcement date of 31st March 2025. In reaching this particular decision the Tribunal placed reliance on Mr Wright's history of being an excellent tenant, his candid agreement that Mr Khanna should recover his property and the Tribunal's knowledge that local authorities are very busy dealing with applications for social housing.

Decision

9. The Tribunal granted an order for possession of the Property as sought in the Application.

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.

G McWilliams

27th January 2025

Legal Member

Date