



**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**

**Chamber Ref: FTS/HPC/EV/18/1713**

**Re: Property at Flat 102, 20 Prospecthill Street, Greenock, PA15 4DJ (“the  
Property”)**

**Parties:**

**Mr Thomas Maurice Craig, 1D Millennium Court, Largs, K30 8SZ (“the  
Applicant”)**

**Mr Craig Bonnar, Ms Pamela Bradley, Flat 102, 20 Prospecthill Street,  
Greenock, PA15 4DJ (“the Respondents”)**

**Tribunal Members:**

**Ewan Miller (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the Applicant is granted an order for possession of  
the Property**

**Background**

By way of an Application dated 5 July 2018, the Landlord made an application to the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the Rules”)

The Applicant sought possession of the Property on the basis that the lease had past its termination date, having been validly terminated by him.

The hearing had been notified to the Respondents. They had been advised that a decision could be made at the Case Management Discussion on 10 September 2018 and that the case did not necessarily need to go to a full hearing of the Tribunal.

## **Case Management Discussion**

The Tribunal held a Case Management Discussion at The Beacon Arts Centre, Greenock on 10 September 2018 at 2pm. The Applicant was present and represented by his solicitor Mr Kenneth Caldwell of Messrs Patten & Prentice, Solicitors, Greenock.

The Respondents were present and represented themselves.

Mr Caldwell submitted that there had been issues with the behaviour of the Respondents at the Property and he had elected to exercise their right to terminate the tenancy as its end date had expired. The relevant Notice to Quit, s11 Notice and S33 notice had been properly and timeously served he submitted. Accordingly he submitted that the Applicant was entitled to possession of the Property.

The Respondents did not dispute that they had received the notices. They did dispute that they had not behaved in an appropriate fashion during the term of the tenancy. They also submitted that they had faced a number of personal challenges recently. As a result, whilst they had hoped to agree a date of departure with the Applicant voluntarily, this had not occurred

## **Findings in Fact**

The Tribunal found the following facts to be established from the papers before it:-

- The parties had entered in to a Short Assured Tenancy on 24 October 2017;
- An AT5 had also been served on the Respondent on 24 October 2017;
- A Notice to Quit and Section 33 Notice had been served on the Respondents by Sheriff Officers on 21 February 2018;
- The Notice to Quit and S33 Notice was validly served;
- The lease of the Property between the parties ought to have terminated on 24 April 2018;
- The Respondents had failed to remove from the Property on that date;
- The Applicants Application had been properly served and notified to the Respondents

## **Statement of Reasons**

The Tribunal granted the order on the basis that the relevant statutory notices had been properly and timeously served on the Applicant. In terms of the relevant legislation, an appropriate notice period had been given to the Respondents and they had failed to remove at the expiry of that period. The Applicant was entitled to the return of his Property

The Respondents accepted at the Tribunal that was the case. They did not put forward any legal argument to justify why an order would not be granted. They had consulted with a legal adviser that morning. Whilst they objected to a separate action by the Applicant in relation to unpaid rental, they accepted they did not have any legal basis to object to an order for possession. Mr Caldwell had spoken to the legal

adviser who had confirmed to him that she did not anticipate that she would be involved going forward. The Respondents confirmed this was the case. Whilst the Tribunal had some sympathy with the personal situation of the Respondents, this did not form a basis to find in their favour or delay matters further.

The Tribunal considered whether the matter should be referred on to a full hearing of the Tribunal. The Tribunal did not see any merit in doing so. The Respondents did not have any legal basis to object to the order being granted. Referral to a full hearing of the Tribunal would only serve to delay the Applicant gaining possession of his Property back, possession of which he was entitled to as at the date of the hearing. On that basis the Tribunal was satisfied that it was appropriate to grant the order.

### **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) determined that the Applicant's application for possession of the Property is granted.

### **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.

**Ewan Miller**

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Legal Member/Chair

10/2/18  
Date