



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/23/3334

Re: Property at Mill Cottage, North Bandirran, Perth, PH2 6JE (“the Property”)

Parties:

Culfargie Estates Ltd, Estate Office, Tarrylaw Farm, Balbeggie, Perth, PH2 6HL (“the Applicant”)

Ms Valerie Cannon, Mr Frank Smith, Mill Cottage, North Bandirran, Perth, PH2 6JE (“the Respondents”)

Tribunal Members:

Fiona Watson (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondents for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

- Background
 1. An application was submitted to the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a repossession order against the Respondents upon termination of a short assured tenancy agreement.
- The Case Management Discussion
 2. A Case Management Discussion (“CMD”) took place on 12 February 2023 by conference call. The Applicant was represented by Ms McNicol of McNabs solicitors. There was no appearance by or on behalf of either of the Respondents. The application had been intimated on each of the Respondents by Sheriff Officer on 20 December 2023. The Tribunal was accordingly satisfied

that the Respondents had been duly notified of the date and time of the CMD and that the CMD could proceed in the Respondents' absence.

3. A separate application by the Applicant seeking a payment order against the Respondent under Rule 70 of the Rules and under case reference FTS/HPC/EV/23/3331 was heard at the same time.
4. The Applicant's representative moved for the order for repossession to be granted as sought. The parties had entered into a Short Assured Tenancy Agreement. The Applicant had served a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") on the Respondents. The Respondents had failed to remove from the Property and continued to reside therein. The Applicant required repossession of the Property.
5. The Applicant's representative submitted that there had been issues regarding rent arrears, the Respondents' dogs causing nuisance to neighbours and the standard of upkeep of the garden, which had resulted in the repossession notices being served. The Respondents had failed to make payment of rent and had fallen into arrears amounting to £2,461. It was believed that Mr Smith may no longer be resident in the Property albeit no formal termination of tenancy had been received. Ms Cannon continued to reside in the Property with her dogs. There were no known dependants in the household.

- Findings in Fact

6. The Tribunal made the following findings in fact:

- (i) The parties entered into a Short Assured Tenancy Agreement ("the Agreement") which commenced 1 December 2008;
- (ii) A Notice to Quit and notice under section 33 of the 1988 Act were served on the Respondents on 28 March 2023 by recorded delivery post;
- (iii) The Notice to Quit and notice under section 33 of the 1988 Act required the Respondents to remove from the Property by 1 June 2023;
- (iv) The Respondents had failed to remove from the Property and Ms Cannon continued to reside therein.

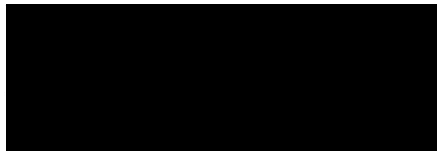
- Reasons for Decision

7. The Tribunal was satisfied that the terms of section 33 of the 1988 Act had been met: namely that the tenancy had reached its finish; tacit relocation was not operating; a notice had been served in terms of that section; and it is reasonable to grant the order. No response had been lodged by the Respondents to explain their position. Considerable rent arrears had accrued with no payment plan entered into. There were no dependants in the household. Accordingly, the Applicant was satisfied that it was reasonable to grant the order sought.

- Decision
8. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondents for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

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.



12 February 2024

Legal Member/Chair

Date