

**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/24/3531

Re: Property at 20 Glenturret Place, Perth, PH1 3FP (“the Property”)

Parties:

**Elizabeth Bell, 26 Edinburgh Road, Perth, PH1 2EP; and Barbara Bissett, 131
Allison Crescent, Perth, PH1 2UP (“the Applicants”)**

Amanda Fallon, 20 Glenturret Place, Perth, PH1 3FP (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

1. This is an application by the Applicants for an order for possession on termination of a short assured tenancy in terms of rule 66 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”) (though it was logged on the Tribunal’s system as an application under rule 65). The tenancy in question was a Short Assured Tenancy of the Property by the Applicants to the Respondent commencing on 28 May 2017.
2. The application was dated 30 July 2024 and lodged with the Tribunal on 31 July 2024. The application relied upon a Notice to Quit and notice in terms of section 33 of the *Housing (Scotland) Act 1988*, both dated 22 May 2024, providing the Respondent with notice (respectively) that the Applicants sought to terminate the Short Assured Tenancy and have the Respondent vacate, each by 27 July 2024. Evidence of service of the said notices by recorded delivery service on 22 May 2024 was included with the application.

3. Evidence of a section 11 notice dated 30 July 2024 in terms of the Homelessness Etc. (Scotland) Act 2003 served upon Perth & Kinross Council was provided with the application.
4. We noted that throughout the application and supporting papers that the postcode of the Property was generally stated as “PH1 2EP” though the lease and Title Sheet showed it as “PH1 3FP”, which we further confirmed as the postcode through Royal Mail’s website. Further reference to this is made below.
5. Prior to the case management discussion (“CMD”) an Inventory of Productions and written submissions were received from the Applicants’ agent with evidence of increased arrears, issues with the external condition of the Property, an anti-social behaviour incident, and access issues.

The Hearing

6. On 9 April 2025 at 10:00, at CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting remotely by telephone conference call, we were addressed by Sally McCartney, solicitor, Kippen Campbell LLP for the Applicants. There was no appearance for the Respondent.
7. We sought confirmation from the Tribunal's clerk as to any contact from or on behalf of the Respondent but there had been none (in regard to this application or a conjoined application on arrears under reference CV/24/3530). The Applicants' agent confirmed that there had been little to no contact with the Respondent since the Notice to Quit and Section 33 notice had been issued in May 2024. Prior to that, the Respondent had been within the Applicants' extended friends and family, and they had dined together at a festive meal in December 2023. The Applicants were surprised by the Respondent ceasing contact but this had been her consistent approach; not responding to letters or texts, nor being in attendance when site visits had occurred to the garden ground of the Property. In all the circumstances, and having not commenced the CMD until 10:05, we were satisfied to hear the application in the absence of the Respondent. (In any event, neither the Respondent nor anyone on her behalf sought to dial into the CMD call at any time before its conclusion.)
8. We raised the apparent error in the postcode (both in the Property details and the Respondent’s address) with the Applicants’ agent and she conceded that a typographical error had been made at some point, had thus entered the Tribunal’s system and was further repeated in documents issued by her office. The Applicants’ agent confirmed that no correspondence had been returned to her office, however, and as the street and house number were accurately stated in all correspondence she was satisfied that delivery had occurred. She sought to amend the application to the correct postcode. We considered the motion and allowed the amendment.
9. We sought clarification from the Applicants’ solicitor as to whether the application was still insisted upon and for her to address us further on the background and

on the papers in her Inventory. Between the papers and her oral submissions we noted the following points relevant to the question of reasonableness:

- a. The Property is a two-bedroom terrace with garden area.
- b. The Respondent is believed to live alone at the Property.
- c. The Respondent is believed to be in employment and not on benefits.
- d. The Property is not specially adapted for the Respondent's use, nor is the Property believed to be especially suitable for the Respondent due to its location or nature.
- e. Rent under the Tenancy agreement is £650 per month.
- f. The Applicants are sisters and the Property is their only rental property.
- g. There is a mortgage over the Property and a 5 year fixed rate period ended in May 2024, at which point the monthly mortgage payment increased from £247.99 to £482.03.
- h. In consideration of the costs of the mortgage and maintaining the Property, and the compliance obligations upon them, the Applicants no longer wished to continue to be landlords and told the Respondent (by letter) on 15 April 2024 of their intention to sell the Property, following up with the Notice to Quit and Section 33 notice.
- i. The Respondent's last payment of rent was on 14 April 2024. She was not in arrears prior to the Applicants' letter about their intention to sell, but has not made any payment (nor been in contact) since. Arrears currently sit at £7,150.
- j. The Applicants scheduled a gas safety engineer to visit on 29 August 2024, providing intimation to the Respondent of this visit by letter on 22 August 2024. The Respondent did not provide access to the engineer on 29 August 2024 and no access to the interior of the Property has been obtained since that date for any purpose.
- k. The local authority's Environmental Health department have been in contact on numerous occasions since 16 April 2024 in regard to dog fouling in the garden of the Property, as well as excess litter and rubbish. Steps were taken by Environmental Health and the Applicants, in the absence of the Respondent taking steps, to attempt to resolve the issues but excess litter and rubbish remain. (The Respondent's dog is believed to have been euthanised during September 2024 due to ill-health, so no further dog fouling is occurring.) Environmental Health correspondence has continued, including a letter sent to the Respondent on 16 March 2025 regarding rats being found at the Property, affecting the Property and neighbouring properties.

- I. There was a disturbance at the Property on 24 January 2025 and a male was seen apprehended by Police. No other anti-social incidents have been reported.

10. No order for expenses was sought.

Findings in Fact

11. By written lease dated 23 May 2017, the Applicants let the Property to the Respondent by lease with a start date of 28 May 2017 until 27 May 2018 on the basis that "it will continue thereafter on a monthly basis" ("the Tenancy").
12. The Tenancy was a Short Assured Tenancy in terms of the Housing (Scotland) Act 1988 further to the Applicants issuing the Respondent with a notice under section 32 of the 1988 Act (an "AT5") on 23 May 2017, prior to commencement of the Tenancy.
13. On 22 May 2024, the Applicants' agent drafted a Notice to Quit in correct form addressed to the Respondent, giving the Respondent notice that the Applicants wished her to quit the Property by 27 July 2024.
14. On 22 May 2024, the Applicants' agent drafted a Section 33 Notice under the 1988 Act addressed to the Respondent, giving the Respondent notice that the Applicants required possession of the Property by 27 July 2024.
15. 27 July 2024 is an ish date of the Tenancy.
16. On 22 May 2024, the Applicants' agent competently served each of the notices upon the Respondent by recorded delivery. The Respondent was thus provided with sufficient notice of the Applicants' intention that the Tenancy was to terminate on 27 July 2024.
17. On or around 31 July 2024, the notice period under the notices having expired, the Applicants raised proceedings for an order for possession with the Tribunal, under rule 66, the grounds of which being: that the Tenancy had reached its ish; that tacit relocation was not operating; that no further contractual tenancy was in existence; that notice had been provided that the Applicants required possession of the Property all in terms of section 33 of the 1988 Act; and that it was reasonable to make the order.
18. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon Perth & Kinross Council on or around 30 July 2024 on the Applicants' behalf.
19. On 4 March 2025, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 9 April 2025.

20. The Applicants seek to sell the Property so as to discontinue being landlords in consideration of rising maintenance and mortgage costs, and the compliance requirements upon them.
21. The Respondent is in rent arrears of £7,150 as of 9 April 2025, having ceased to make payment of rent since the Applicants indicated their desire to sell the Property.
22. The Respondent lives alone in the Property.
23. The Property is neither specially adapted nor especially suitable for the Respondent's needs.
24. The Respondent has declined to permit reasonable access for inspections of the Property, including a gas safety inspection.
25. The Respondent has declined to take reasonable steps to address complaints regarding the external condition of the Property, including issues of litter and pest control. Such issues are causing inconvenience to neighbours.
26. An incident of anti-social behaviour occurred at the Property on 24 January 2025 which involved the apprehension of a male at the Property.

Reasons for Decision

27. The application was in terms of rule 66, being an order for possession upon termination of a short assured tenancy. We were satisfied on the basis of the application and supporting papers that the necessary notices had been served with sufficient notice, and thus the requirements of the 1988 Act had been complied with. In any event, the Respondent tendered no dispute as to the validity of the notices.
28. We require, in terms of the 1988 Act as currently amended, to consider "that it is reasonable to make an order for possession". On this, the Respondent again offered no opposition. We were satisfied that the Applicants' reasons for seeking eviction were reasonable in that they sought to sell the Property in consideration of the economics of remaining landlords. Further, the Respondent's subsequent behaviour, in failing to pay rent, provide access, or address environmental health concerns, all further made it reasonable to evict. In the circumstances before us, we were thus satisfied that it was reasonable to grant the application.
29. The Rules allow at rule 17(4) for a decision to be made at a CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time in normal terms.

Decision

30. In all the circumstances, we make the decision to grant an order against the Respondent 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.

Joel Conn

Legal Member/Chair

9 April 2024

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Date