



**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/18/1603

**Re: Property at Flat 6, 8 Williamson Avenue, Dumbarton, G82 2AE (“the
Property”)**

Parties:

**Mr Chris Watson, 73 Round Riding Road, Dumbarton, G82 2HX (“the
Applicant”)**

**Mr Stuart McCreadie, Flat 6, 8 Williamson Avenue, Dumbarton, G82 2AE (“the
Respondent”)**

Tribunal Members:

Virgil Crawford (Legal Member)

Decision

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

BACKGROUND

1. By lease dated 26th September 2014 the Applicant let the Property to the Respondent;
2. Prior to the lease being signed a notice in terms of section 32 of the Housing (Scotland) Act 1988 (“the 1988 Act”) – commonly referred to as an AT5 form – was served on the Respondent. The lease, accordingly, was a “short assured tenancy”;
3. On 24th April 2018 a notice to quit and a notice in terms of s33 of the 1988 Act were served on the Respondent. The Respondent acknowledged receipt of both. Both notices required vacant possession of the Property as at 26th June 2018;
4. The Respondent remained within the Property and was still residing there as at the date of the Case Management Discussion;

THE CASE MANAGEMENT DISCUSSION

5. The Applicant did not attend the Case Management Discussion. She was, however, represented by Miss S Anderson of the Caledonia Bureau, Dumbarton. The Respondent attended personally;
6. The Respondent was not in attendance at 11.30am, being the time assigned for the commencement of the Case Management Discussion. The Tribunal commenced the Case Management Discussion in his absence. The Respondent attended at 11.43am. He apologised for being late. The Tribunal had not made any decision in the case at that point and the Case Management Discussion was recommenced;
7. The Applicant's representative had presented a rent statement to the Tribunal prior to the arrival of the Respondent. This showed significant rent arrears. The Tribunal advised the Respondent of this. The Tribunal also, however, advised that it considered the rent statement to be of no relevance to the point it was being asked to consider.
8. The Respondent advised the Tribunal that there had been various issues with the Property and that repairs required had not been attended to. In particular, the bath was in need of repair, the shower was in need of repair, the electrical wiring within the Property required inspection and / or repair and the front windows leaked in bad weather. The Tribunal advised that those matters were not relevant to the point it was being asked to consider;
9. The application to the Tribunal was an application for eviction in terms of s33 of the 1988 Act. Rent arrears were of no relevance in such an application. The condition of the Property was of no relevance in such an application. The point at issue was whether the notices required to terminate the tenancy had been timeously served on the Respondent. The Respondent confirmed that they had been.
10. The Respondent advised that he was expecting the Tribunal to grant an eviction order. He advised that he had already been engaging with the local authority homeless department and other agencies to assist him in obtaining alternative accommodation. In relation to his engagement with the local authority, an order for eviction would assist him. If he voluntarily vacated the Property he would be considered to be intentionally homeless. If he was evicted that would not be so;

FINDINGS IN FACT

11. By lease dated 26th September 2018 the Applicant let the Property to the Respondent;
12. The lease is a short assured tenancy;
13. On 24th April 2018 the Applicant's agents served a notice to quit and a notice in terms of s33 of the 1988 Act upon the Respondent. These notices were served and received more than 2 months prior to the date on which vacant possession was required;
14. A notice in terms of s11 of the Homelessness etc. (Scotland) Act 2003 had been intimated to the local authority;

REASONS FOR DECISION

15. In the circumstances, as a matter of law, the lease being a short assured tenancy and the notices required to terminate it having been timeously served, the Tribunal was required to grant the order sought.

DECISION

The Tribunal granted an order removing the Respondent from the Property and granting possession of it to the Applicant.

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.

Virgil Crawford

19 October 2018

Legal Member/Chair

Date