



**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/18/2053

Re: Property at 143 Strathaven Road, Stonehouse, ML9 3JN (“the Property”)

Parties:

Mr Alistair Ian Sutherland, 4 Stewart Street, Hamilton, ML3 0RJ (“the Applicant”)

Miss Sarah Jane Hunter, 143 Strathaven Road, Stonehouse, ML9 3JN (“the Respondent”)

Tribunal Members:

Joel Conn (Legal 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 Applicant 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 Procedure Rules”). The tenancy in question was a Short Assured Tenancy of the Property by the Applicant to the Respondent commencing on 12 February 2014.
2. The application was dated 7 August 2018 and lodged with the Tribunal shortly thereafter.
3. The application relied upon a Notice to Quit and a notice in terms of section 33 of the Housing (Scotland) Act 1988, both dated 16 February 2018, providing the Respondent with notice (respectively) that the Applicant sought to terminate the Short Assured Tenancy and have the

Respondent vacate, each by 12 May 2018. Evidence of service of the said notices by Sheriff Officers upon the Respondent on 16 February 2018 was provided with the application.

4. Evidence of a section 11 notice dated 3 August 2018 in terms of the Homelessness Etc. (Scotland) Act 2003 served upon South Lanarkshire Council was provided with the application.

The Hearing

5. On 21 November 2018, at a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting at the Glasgow Tribunals Centre, I was addressed by Ross Whiteford, of Scottish Property Centre in Hamilton, the letting agent for the Applicant.
6. There was no appearance by the Respondent. The Applicant's agent confirmed that no contact had been received from the Respondent in regard to the notices or the application, though his office had received a request for a reference from another letting agent, suggesting to the Applicant's agent that the Respondent had been seeking alternative accommodation. I was advised of no contact received from the Respondent by the Tribunal. I was satisfied in the circumstances to proceed in the absence of the Respondent.
7. The Applicant's agent confirmed that the application for eviction was still insisted upon.

Findings in Fact

8. On 31 January 2014, the Applicant let the Property to the Respondent by lease with a start date of 12 February 2014 and an end date of 12 August 2018, thereafter continuing on a month to month basis until terminated ("the Tenancy").
9. The Tenancy was a Short Assured Tenancy in terms of the Housing (Scotland) Act 1988 further to the Applicant issuing the Respondent with a notice under section 32 of the 1988 Act (an "AT5") on 31 January 2014, prior to commencement of the Tenancy.
10. On 16 February 2018, Sheriff Officers acting on the Applicant's instruction drafted a Notice to Quit in correct form addressed to the Respondent, giving the Respondent notice that the Applicant was to quit the Property by 12 May 2018.
11. On 16 February 2018, Sheriff Officers acting on the Applicant's instruction drafted a Section 33 Notice under the 1988 Act addressed to the Respondent, giving the Respondent notice that the Applicant required possession of the Property by 12 May 2018.
12. 12 May 2018 is an ish date of the Tenancy.

13. On 16 February 2018, the same Sheriff Officers acting for the Applicant competently served each of the notices upon the Respondent. The Respondent was thus provided with sufficient notice of the Applicant's intention that the Tenancy was to terminate on 12 May 2018.
14. On 7 August 2018, the notice period under the notices having expired, the Applicant raised proceedings for an order for possession with the Tribunal, under Rule 66, the grounds of which being that the Tenancy had reached its term; that tacit relocation was not operating; that no further contractual tenancy was in existence; and that notice had been provided that the Applicant require possession of the Property all in terms of section 33 of the 1988 Act.
15. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon South Lanarkshire on or around 3 August 2018 on the Applicant's behalf.
16. On 31 October 2018, 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 21 November 2018.

Reasons for Decision

17. The application was in terms of rule 66, being an order for possession upon termination of a short assured tenancy. I was satisfied on the basis of the application and supporting papers that the necessary notices had been served with sufficient notice, the Respondent was extending no defence or dispute to the notices, and thus the requirements of the 1988 Act had been complied with.
18. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. I was thus satisfied to grant an order for possession.

Decision

19. In all the circumstances, I make the decision to grant an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988 in normal terms.

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

Date

21 November 2018