



**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/18/2601

Re: Property at 172 Westerton Road, Grangemouth, FK3 9EZ (“the Property”)

Parties:

**Miss Laura Stephen, Mr Richard Laurie, 35 Almond Road, Kirliston, EH29 9BN;
35 Almondhill Road, Kirkliston, EH29 9BN (“the Applicants”)**

**Ms Jill Robert, 172 Westerton Road, Grangemouth, FK3 9EZ (“the
Respondent”)**

Tribunal Members:

Lynsey MacDonald (Legal Member)

Decision (in absence of the Respondent)

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

1. Background

- 1.1. The Applicants sought an order for possession in respect of the property. An application in terms of Rule 66 (Possession on Termination of Short Assured Tenancy) was received by the Tribunal on 1st October 2018, stating that recovery was sought under section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”).
- 1.2. A second application was received in terms of Rule 65 (Possession on Mandatory or Discretionary Grounds). This second application was also received by the Tribunal on 1st October 2018, stating that recovery was sought under section 18 of the 1988 Act.
- 1.3. Separately an application was lodged in respect of rent arrears.

- 1.4. The Applicants lodged the tenancy agreement dated 30th November 2017, form AT5 dated 30th November 2017, copies of the Notice to Quit, section 33 notice and form AT6, together with an execution of service thereof, and a section 11 notice.
- 1.5. The Tribunal fixed a Case Management Discussion, and this was intimated to parties. The Respondent was advised that written representations in response to the application required to be lodged by 12th December 2018. No responses have been received. The Respondent was also told that she was required to attend the Case Management Discussion, and was informed that the Tribunal could make any decision on the application that could be made at a full Hearing, if the Tribunal had sufficient information and considered the procedure to have been fair.

2. The Case Management Discussion.

- 2.1. The Applicants attended the Case Management Discussion, and were represented by Mr Redmond Harris, Jackson Boyd Solicitors.
- 2.2. The Respondent failed to attend the Case Management Discussion. The Clerk confirmed that the Tribunal administration had not received anything from the Respondent. The Tribunal delayed in calling the Case Management Discussion, to allow additional time for her to arrive, lest she had been delayed.
- 2.3. The Tribunal agreed to the Applicants' invitation to continue with the Case Management Discussion in the absence of the Respondent.
- 2.4. The Applicants lodged an up to date rent statement showing outstanding rent of £4,590.
- 2.5. The Tribunal permitted the Applicants to lodge (late) copies of text messages, on the basis that they appeared to contain information about Housing Benefit which may be favourable to the Respondent.
- 2.6. The Applicants' solicitor invited the Tribunal to grant the order for possession in terms of the application under Rule 65, on the basis that the grounds had been met. In particular:
 - (a) Ground 8: there were three months' rent arrears at the time of lodging the application and today, as shown in the rent statement;
 - (b) Ground 11: the Applicant had persistently delayed in paying rent, as shown in the rent statement;
 - (c) Ground 12: the Respondent had breached the tenancy agreement by failing to pay rent, as shown in the rent statement.He invited the Tribunal to find that the exception in section 18(3A) of the 1988 Act should not apply.

- 2.7. The Applicants' solicitor invited the Tribunal, in the alternative, to grant the order for possession in terms of the application under Rule 66, on the basis that the grounds had been met.

3. Findings in Fact

- 3.1. The Applicants and the Respondent entered into a Tenancy Agreement on 30th November 2017, with the start date for the lease being the same date.
- 3.2. The period of the lease was six months, and provided for continuation on a monthly basis thereafter.
- 3.3. The tenancy was a short assured tenancy.
- 3.4. The rent payable was £510 per calendar month.
- 3.5. On 29th June 2018 a Notice to Quit was served on the Respondent indicating that possession of the property was required by 30th August 2018, and thereby terminating the contractual tenancy.
- 3.6. On 29th June 2018 a section 33 notice was served on the Respondent indicating that possession of the property was required by 30th August 2018.
- 3.7. The Respondent did not vacate the property.

4. Reasons for Decision

- 4.1. The Tribunal proceeded on the basis of the written documents which had previously been lodged together with oral submissions from the Applicants' solicitor in respect of those documents.
- 4.2. There was nothing before the tribunal challenging or disputing any of the evidence before it.
- 4.3. The Tribunal first considered the application under Rule 66, as it appeared from the process that this was the principal application. The Tribunal accepted that the grounds for possession under section 33 of the 1988 Act were met.
- 4.4. The Tribunal considered that it was not necessary to determine the alternative application under Rule 65.

5. Decision

The order for possession is granted under section 33 of the 1988 Act.

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.

Lynsey MacDonald

Legal Member

19th December 2018

Date