



**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/18/2870

Re: Property at 24 Doon Way, Glasgow, G66 2RA (“the Property”)

Parties:

**Mrs Fiona Murray, 30 Craigenbay Road, Lenzie, Glasgow, G66 4LG; 30
Craigenbay Road, Lenzie, Glasgow, G66 5JP (“the Applicant”)**

**Mr Joseph Rankin, Mrs Helen Rankin, 24 Doon Way, Kirkintilloch, Glasgow,
G66 2RA; 24 Doon Way, Glasgow, G66 2RA (“the Respondent”)**

Tribunal Members:

Joel Conn (Legal Member)

Decision

**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 Respondents commencing on 28 November 2015.
2. The application was dated 22 August 2018 and lodged with the Tribunal shortly thereafter.
3. The application relied upon Notices to Quit and notices in terms of section 33 of the Housing (Scotland) Act 1988, both dated 22 March 2018, providing the Respondents with notice (respectively) that the Applicant sought to terminate the Short Assured Tenancy and have the

Respondents vacate, each by 28 May 2018. Evidence of service of the said notices by Sheriff Officers upon the Respondents on 22 March 2018 was provided with the application.

4. Evidence of a section 11 notice dated 22 August 2018 in terms of the Homelessness Etc. (Scotland) Act 2003 served upon East Dunbartonshire Council was provided with the application.

The Hearing

5. On 5 December 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 Sharon Cooke, of CODA Estates Ltd, the letting agent for the Applicant. The Respondents were both in attendance.
6. The Applicant’s agent confirmed that the application for eviction was still insisted upon. The Respondents, speaking principally through Mr Rankin, expressed a desire not to be evicted and hoped that a negotiated settlement could be reached. Though I encouraged the parties to discuss matters after conclusion of the CMD, the Applicant’s agent was clear that she sought the application decided upon and I was satisfied in the circumstances that there was no reason not to do so. The Respondents confirmed their acceptance of the accuracy of all papers relied upon in the application and extended no dispute to any terms or validity of any part of the application or supporting papers.
7. As a preliminary matter, I had noted prior to the CMD that the application had been raised in the names of Iain and Fiona Murray but only Fiona Murray appeared to be landlord. The Applicant’s agent had confirmed by email that this was agreed and that Iain Murray was to be removed as joint applicant. At the CMD, the Respondents confirmed they had no opposition to this and I duly allowed the amendment of the application to proceed in the name of Fiona Murray solely.

Findings in Fact

8. On 28 November 2015, the Applicant let the Property to the Respondents by lease with a start date of 28 November 2015 and a “term of six months and then a month rolling contract thereafter” (“the Tenancy”).
9. The Tenancy was a Short Assured Tenancy in terms of the Housing (Scotland) Act 1988 further to the Applicant issuing the Respondents with a notice under section 32 of the 1988 Act (an “AT5”) on 28 November 2015, prior to commencement of the Tenancy.
10. On 22 March 2018, Sheriff Officers acting on the Applicant’s instruction drafted Notices to Quit in correct form addressed to each of the Respondents, giving the Respondents notice that the Applicant wished them to quit the Property by 28 May 2018.

11. On 22 March 2018, Sheriff Officers acting on the Applicant's instruction drafted Section 33 Notices under the 1988 Act addressed to each of the Respondents, giving the Respondents notice that the Applicant required possession of the Property by 28 May 2018.
12. 28 May 2018 is an ish date of the Tenancy.
13. On 22 March 2018, the same Sheriff Officers acting for the Applicant competently served each of the notices upon the Respondents. The Respondents were thus provided with sufficient notice of the Applicant's intention that the Tenancy was to terminate on 28 May 2018.
14. On 22 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 ish; 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 East Dunbartonshire Council on or around 22 August 2018 on the Applicant's behalf.
16. On 15 November 2018, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondents, providing the Respondents with sufficient notice of the CMD of 5 December 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 Respondents were extending no defence or dispute to the notices (and were positively confirming they accepted everything was in correct form), 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 Respondents 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

5 December 2018