



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for eviction/ possession of a Rented Property in terms of Rule 66 of the Procedure Rules.

Chamber Ref: FTS/HPC/EV/18/2774

Re: Flat 42, 15 Ibroxholm Oval, Glasgow, G51 2TX ("the Property")

Parties:

Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL ('the Applicants')

David Adams, Wheatley Housing Group Litigation Team, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL ('The Applicants' Representative')

Andrew Martin, Flat 42, 15 Ibroxholm Oval, Glasgow, G51 2TX ('the Respondent')

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')

Tribunal Member: Jacqui Taylor (Legal Member)

Background

1. The Applicant applied to the Tribunal for eviction/ possession of the Rented Property under section 33 of the Housing (Scotland) Act 1988, in terms of Rule 66 of the Procedure Rules. The application was dated 17th October 2018. The application states:
'A Notice to Quit was served on the Tenant on 15th June 2018 terminating the tenancy as at 28th August 2018. Additionally a notice in terms of section 33(1)(d) of the Housing (Scotland) Act 1988 was served on the Tenant on 15th June 2018. The tenancy agreement accordingly reached its ish on 28th August 2018. A notice in terms of section 33 of the Housing (Scotland) Act 1988 and a Notice to Quit having been served on the Tenant against an ish date, tacit relocation is not operating. No further contractual tenancy is in place. Accordingly, the Landlord is entitled to an order for recovery of possession of the leased subjects in terms of section 33 of the Housing (Scotland) Act 1988. The Landlord has given notice to

the local authority in terms of the Homelessness etc (Scotland) Act 2003 of its intention to apply for an eviction order.'

2. Documents lodged with the Tribunal were:-

- The Tenancy Agreement.
- Form AT5
- Copy Notice to Quit dated giving the Tenant formal notice to quit the Property Flat 42, 15 Ibroxholm Oval, Glasgow, G51 2TX by 28th August 2018.
- Section 33 Notice to the Tenant advising her of the Landlords' requirement to possess the Property at 28th August 2018.
- Form AT6 dated 13th June 2018 on the basis that grounds 8,11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988 had not been complied with.
- Section 11 Notice addressed to Glasgow City Council.
- Rent Arrears statement for the period to which states that the arrears of rent are £3100.
- A Certificate of Intimation by Walker Love, Sheriff Officers dated 15th June 2018 confirming that the Notice to Quit, AT6 and section 33 Notice had been served on the Respondent.

3. Case Management Discussions

3.1 This case had previously called for a Case Management Discussion (CMD) on 14th December 2018. The Tribunal received an email from the Respondent dated 14th December 2018 advising that he was unable to attend. He advised that he had been out of work and he did not receive any benefits. At the CMD the Tribunal noted that the Land Certificate obtained by the Tribunal Administration referred to the owner of the Property being Ibroxholm Energy Limited. The Tribunal adjourned the CMD to enable the title position to be clarified.

3.2 The Applicant sent the Tribunal Administration an email dated 3rd January 2019 and attached a copy of Land Certificate GLA166850 which included title to Flat 42/9, 15 Ibroxholm Oval, Glasgow. The Registered Proprietor is Glasgow Housing Association Limited. The email explained that Glasgow Housing Association leased the subjects to Lowther Homes Limited. A copy of the lease was produced.

3.3 This case called for a further Case Management Discussion (CMD) at 2pm at Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT on 3^{1st} January 2019.

The Applicant was not present but their representative Lisa Taylor, litigation solicitor of Lowther Homes Limited was present.

The Respondent was not present.

The Respondent had been served notice by Sheriff Officers on 14th January 2019 of the case and details of the continued Case Management Discussion. No written responses had been received from the Respondent.

The Respondent sent the Tribunal Administration an email on the morning of 31st January 2019 advising that he was unable to attend and that he did not wish to apply for a postponement.

4. The Tribunal identified with the Applicants' representative the following agreed facts:

4.1 The Respondent is Tenant of the Property in terms of the Short Assured Tenancy between the parties. The term of the Tenancy was from 9th November 2015 until 28th May 2016 and monthly thereafter until terminated by either party giving no less than two months' notice in writing to the other party.

4.2 The Applicants are Landlords of the Property in terms of the lease between Glasgow Housing Association and Lowther Homes Limited.

5. Requirements of Section 66 of the Procedure Rules.

(a) The Tribunal confirmed that the application correctly detailed the requirements of section 66 of the Procedure Rules namely:-

- (i) the name, address and registration number of the Landlords.
- (ii) the name and address of the Landlord's representative.
- (iii) the name and address of the Tenant.

(b) The Tribunal confirmed that the application had been accompanied by the documents specified in Section 66(b) of the Procedure Rules:

- (i) The Tenancy Agreement.
- (ii) The Notice that the tenancy is a short assured tenancy.
- (iii) The notice given to the tenant under section 33(1)(d) of the 1988 Act.

(c) The Tribunal confirmed that the application form had been correctly signed and dated by the Landlords' representatives as required by Section 66(c) of the Procedure Rules.

6. Requirements of Section 33 of the Housing (Scotland) Act 1988

The Tribunal were satisfied that the requirements of section 33 have been met, namely that:

- (i) The Short assured Tenancy has reached its ish.
- (ii) That tacit relocation is not operating.
- (iii) That no further contractual tenancy is in existence.
- (iv) That the Landlord has given to the Tenants notice stating that he requires possession of the Property. In terms of section 33(2) the period of notice is two months.

The lease commenced on 9th November 2015 and ended on 28th May 2016 and continued month to month thereafter. Notice to Quit and section 33 notice had been served on the Tenant by sheriff officer on 15th June 2018. Both documents required the Tenant to vacate the Property on 28th August 2018. The required two months period of notice had been provided.

7. Requirements of Section 11 of the Homelessness etc Scotland Act 2003.

The Tribunal were satisfied that the required notice giving Glasgow City Council notice of the proceedings had been sent by email by the Applicant's solicitor David Adams to gccsection11notification@sw.glasgow.gov.uk on 17th October 2018.

8. Decision

The Tribunal determined that the requirements of section 33(1) of the Housing (Scotland Act) 1988 had been complied with and made an order for possession of the Property.

9. 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.

J Taylor

Legal Member

31st January 2019