

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/20/0228

Re: Property at 53 Burnside Road, Gorebridge (“the Property”)

Parties:

Eric Gunn, 37 Craigour Crescent, Edinburgh, EH17 7PH (“the Applicant(s)”)

Florence Sullivan, 53 Burnside Road, Gorebridge (“the Respondent(s)”)

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 the order for possession should be granted.

1. Background

1.1 The Applicant sought an order for eviction in respect of the property. An application in terms of Rule 66 (Possession on Termination of Short Assured Tenancy) dated 21st January 2020 was received by the Tribunal on 22nd January 2020, stating that recovery was sought under section 33 of the Housing (Scotland) Act 1988.

1.2. By separate application of the same date, the Applicant sought an order for payment in respect of rent arrears.

1.3. In support of the Application the Applicant lodged copies of: lease dated 12th February 2015; the AT5; the Notice to Quit and section 33 notice, together with an execution of service in respect thereof; a section 11 notice together with confirmation of submission by email in respect thereof; and a rent statement.

1.4. The Tribunal fixed a Case Management Discussion for 23rd March 2020 and this was intimated to parties. The Respondent was advised that written representations in response to the application required to be lodged by 11th March 2020. 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 the full

Hearing, if the Tribunal had sufficient information and considered that the procedure had been fair.

1.5. As a result of the coronavirus pandemic, the Case Management Discussion was postponed, and thereafter rescheduled for 9th July 2020. The Respondent was informed of the new date by letter dated 10th June 2020, which contained instructions about how to attend the Case Management Discussion by teleconference.

2. The Case Management Discussion

2.1. The Applicant did not personally attend the Case Management Discussion, but was represented by Ms Morrison, Solicitor.

2.2. By 10am the Respondent had not joined the teleconference call. The Tribunal delayed in calling the case to allow additional time for the Respondent to join the call, lest she was having difficulty in doing so. The Case Management Discussion commenced at 10.10am, by which time the Respondent had still not joined the teleconference.

2.3. The Applicant invited the Tribunal to proceed in the absence of the Respondent. The Tribunal was satisfied that the requirements of Rule 17(2) had been met, namely that the Respondent had been given reasonable notice of the date, time and place of the Case Management Discussion, had wilfully failed to attend the Case Management Discussion, and that it was fair to proceed in her absence.

2.4. The Tribunal proceeded on the basis of the written documents which had previously been lodged, together with submissions from the Applicant's solicitor.

2.5. The Applicant's solicitor invited the Tribunal to grant the order for possession and the order for payment in the sum of £11,757.73

3. Findings in Fact

3.1. The Respondent entered into a tenancy agreement with Edward Gunn on 12th February 2015. The tenancy was due to end on 17th August 2015, but allowed for monthly continuation, and termination with two months' notice.

3.2. The tenancy was a short assured tenancy agreement.

3.3. The rent payable by the Respondent was £800 per calendar month.

3.4. On 17th May 2015 ownership of the property passed from Edward Gunn to Eric Gunn. The lease continued with the Applicant as landlord.

3.5. The Respondent made rent payments until around June 2019, albeit she was regularly in arrears of varying amounts. The final rent payment was made around June 2019 (the exact date being unknown). No further payment was received.

3.6. On 15th January 2020 the sum of £11,757.73 in respect of rent arrears was outstanding.

3.7. On 31st January 2019 the Applicant served on the Respondent, by Sheriff Officer, a section 33 notice and a Notice to Quit, requiring possession of the property by 17th April 2019.

3.8. The short assured tenancy ended on 17th April 2019.

3.9. The Respondent failed to leave the property.

4. Reasons for decision

4.1. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

4.2. The Tribunal accepted the the short assured tenancy had reached its finish, and tacit relocation was not operating.

4.3. The Tribunal accepted that the Applicant had given the Respondent two months' notice that possession of the property was required.

4.3. Accordingly the Tribunal determined that the grounds for possession were met and that it was reasonable to grant the order.

4.5. Further, the Tribunal accepted that the sum of £11,757.73 was owed by the Respondent to the Applicant in respect of rent arrears.

5. Decision

The grounds for possession being met, the order for possession is granted.

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.

L McDonald

9th July 2020

Legal Member

Date