



**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/20/1271

**Re: Property at Loch Mhor House, Gorthleck, Inverness, IV2 6YP (“the
Property”)**

Parties:

Mrs Anne Fraser, 14 Lauson Place, Kirkliston, EH29 9FY (“the Applicant”)

**Mr Christopher Graham Lewis, Loch Mhor House, Gorthleck, Inverness, IV2
6YP (“the Respondent”)**

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an Order for Possession be granted in respect of the
Property**

Introduction

This case was heard at the same time as application FTS/HPC/CV/20/1505.

A Case Management Discussion (CMD) took place on 3 September 2020 at 2.00 pm
in respect of both cases.

Service of the applications, together with intimation of the CMD, was made upon the
respondent by Sheriff Officer delivery on 10 August 2020.

The respondent did not lodge any response or written representations to either
application.

The applicants in both cases are Mrs Anne Fraser and Mr Ian Karlheinz Fraser. They were both present at the teleconference hearing and represented by Mrs Fraser, who made the oral submissions.

The respondent, Mr Christopher Graham Lewis, did not participate in the teleconference. There was no barrier to his participation.

Findings and Reasons

These applications are under Rules 66 and 70 and seek both an eviction order and a civil order for payment, relating to alleged rent arrears and other claims.

The property is Loch Mhor House, Gorthleck, Inverness IV2 6YP.

The applications are accompanied by the following documents:-

1. Copy Tenancy Agreement.
2. Copy AT5.
3. Copy Notice to Quit and Section 33 Notice.
4. Section 11 Notice.
5. Copy TSB bank statements.
6. Copy BT bills.
7. Copy gardener fees and photographs.
8. Rent statement

The parties entered into a short assured tenancy with date of entry on 30 November 2017. A relevant AT5 was served upon the respondent in advance of the tenancy commencing. A deposit of £1,000 was paid and the rent was stipulated at a rate of £750 per calendar month.

A notice to quit and relevant Section 33 Notice was served upon the respondent. These documents are dated 20 March 2020. Evidence of the service of these documents by way of recorded delivery track and trace receipt has been produced. The Notice to Quit required the property to be vacated by 30 May 2020. The respondent was provided with the required 2 months' notice. He has failed to leave.

The applicants are entitled to recover possession of the property under Rule 66 and Section 33 of the Housing (Scotland) Act 1988. The Tribunal attached weight to the unchallenged documentary evidence together with the oral representations made at the CMD. An order for repossession is granted.

The rent statements and other documentary evidence shows that the respondent is in significant rent arrears. The applicant is entitled to recover rent lawfully due under the

lease. As at the time of the applications being made to the Tribunal, a total of £8,950 was outstanding. Further arrears have accrued but no Rule 14A amendment has been made to seek to increase the sum sought.

In addition to the rent arrears two further sums are sought.

Firstly phone bills totalling £1,327.57 have been incurred by the respondent. Clause 3.3 of the written lease places a clear obligation upon the respondent to meet these charges. He has failed to do. This is evidenced by relevant documents which are unchallenged. The Tribunal attached weight to these. The applicants are entitled to recover this sum.

Secondly, the applicants seek to recover gardener's fees in the sum of £490. Clause 3.15 of the written lease places an obligation upon the respondent to keep the grass cut and to keep the garden neat and tidy. Whilst the respondent may have breached this clause there is no right or entitlement on the part of the applicants expressed in the written lease which affords them with the right to enter the property or garden grounds and make good the respondent's failures and to thereafter recharge him for the expense. Mrs Fraser accepted this and conceded this head of claim.

A total payment order against the respondent is made in the sum of £10,277.57.

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.

Richard Mill

3 September 2020

Legal Member/Chair

Date