



**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/21/1575

**Re: Property at 29 0/2, Tannahill Court, Ferguslie Walk, Paisley, PA1 2RQ (“the
Property”)**

Parties:

Mr Alan Lilley, 244 Millfield Hill, Northbarr, Erskine, PA8 6JL (“the Applicant”)

**Mr Richard Rossiter, 29 0/2, Tannahill Court, Ferguslie Walk, Paisley, PA1 2RQ
 (“the Respondent”)**

Tribunal Members:

Graham Harding (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant was entitled to an order for possession
of the property and the ejection of the Respondent from the property.**

Background

1. By application dated 31 June 2021 the Applicant’s representatives LM Properties Paisley Ltd applied to the Tribunal for an order for possession of the property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicant’s representatives submitted a copy of the Short Assured Tenancy Agreement, Form AT5, Notice to Quit, Section 33 Notice and Section 11 Notice in support of the application.
2. By Notice of Acceptance dated 2 August 2021 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was sent to the Applicant’s representatives by post and served on the Respondent by Sheriff Officers on 20 September 2021.

The Case Management discussion

4. A CMD was held by teleconference on 21 October 2021. The Applicant did not attend but was represented by Mr Robert Downie of the Applicant's representatives. The Respondent did not attend and was not represented. The Tribunal being satisfied that proper intimation of the date and time of the CMD had been given to the Respondent determined to proceed in his absence.
5. Mr Downie confirmed to the Tribunal that the parties had entered into a Short Assured Tenancy agreement that had commenced on 26 August 2016 and lasted until 26 February 2017 and then continued on a month-to-month basis thereafter at a rent of £400.00 per calendar month. Mr Downie advised the Tribunal that his firm had served a Notice to Quit and Section 33 Notice on the Respondent by Recorded Delivery post on 22 December 2020. The Tribunal noted that proof of posting and delivery were with the case papers. Mr Downie also confirmed that he had emailed a Section 11 Notice to Renfrewshire Council on 30 June 2021 and confirmed that all the procedural requirements for possession of the property in terms of Section 33 of the 1988 Act had been met.
6. The Tribunal advised Mr Downie that due to the provisions of the Coronavirus (Scotland) Act 2020 it had to be satisfied that it was reasonable in the circumstances to grant the order sought and asked Mr Downie to provide information as to the reasons for the Applicant seeking the order. Mr Downie explained that the Respondent had a history of accruing rent arrears and had stopped paying rent completely in November 2020. He went on to say that after taking advice from the Scottish Association of Landlords the notices had been served. Subsequently the rent due by the Respondent had increased and was currently standing at £6700.00. Mr Downie said that his firm had tried to communicate with the Respondent on many occasions through emails, home visits and texts but had been unable to make any progress. He said that they had occasionally received hand written notes posted through their letter-box from the Respondent telling them to "take me to Court".
7. Mr Downie confirmed that he had attempted to direct the Respondent to the availability of the Tenant Hardship Fund without success. He was aware that the Respondent lived alone in the property and believed he was unemployed. but not in receipt of benefits. As far as he was aware the Respondent remained in the property. He said he had tried to engage with the Respondent to assist him but he was not willing to have a conversation. In the circumstances the order sought should be granted.

Findings in Fact

8. The parties entered into a Short Assured Tenancy Agreement that commenced on 26 August 2016 for a period of six months at a rent of £400.00 per month and continued thereafter on a month-to-month basis.
9. The tenancy reached its end on 26 June 2021.
10. Intimation of the Application was sent to Renfrewshire Council by a Section 11 notice sent by email on 30 June 2021.
11. The Respondent is due rent amounting to £6700.00.
12. The Applicant's representatives attempted to help the Respondent find funding assistance to pay his rent.
13. The Respondent lives alone in the property.

Reasons for Decision

14. The Tribunal was satisfied from the documents provided and the oral submissions that the procedural requirements for the granting of an order under Section 33 of the 1988 Act had been met. There was a short assured tenancy in place that had been terminated by the service of a Notice to Quit and a Section 33 Notice that had been properly served on the Respondent. Proper intimation of the proceedings had been given to the local authority by virtue of a Section 11 Notice.
15. The Coronavirus (Scotland) Act 2020 makes the granting of an order for possession under Section 33 of the 1988 Act discretionary and therefore the Tribunal required to be satisfied that it was reasonable in the circumstances to grant the order sought. In considering whether to grant the order the Tribunal took account of the fact that despite being given an opportunity to submit written representations and to attend the CMD the Respondent had chosen to do neither. The Tribunal also took account of the fact that the Respondent had accrued very substantial rent arrears and had apparently failed to make any attempt to avail himself of any funding that may have been available to him due to the Covid pandemic despite links being provided by the Applicant's representatives. The Tribunal also took account of the fact that the Respondent was living alone and presumably if made homeless would be eligible for housing by the local authority under the Homeless legislation. Weighing up the issue of reasonableness on both sides the Tribunal was satisfied that the order should be granted.
16. The Tribunal's decision was unanimous.

Decision

17. The Tribunal being satisfied that it had sufficient information before it to make a decision without the need for a hearing and having carefully considered the written submissions and documents together with the oral submissions from Mr Downie find the Applicant entitled to an order for the possession of the property and the ejection of the Respondent from the property.

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.

Graham Harding

Legal Member/Chair

**21 October 2021
Date**