



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber)**

**Chamber Ref: FTS/HPC/EV/21/1815**

**Re: Property at 62 Forteath Street, Burghead, Moray, IV30 5XF (“the Property”)**

**Parties:**

**Mrs Susan Jones, 38 Welham Grove, Retford, Nottinghamshire, DN22 6TS (“the Applicant”)**

**Mr William Dunnett, 62 Forteath Street, Burghead, Moray, IV30 5XF (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and Leslie Forrest (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**BACKGROUND**

1. By Lease dated 25<sup>th</sup> June 2011 the Applicant Let the property to the Respondent. Prior to signing of the lease the Applicant was served with, and signed, a form in terms of Section 32 of the Housing (Scotland) Act 1988 (“the 1988 Act”) – said form commonly being referred to as a Form AT5. The Lease was, therefor, a short assured tenancy in terms of the 1988 Act;
2. The Lease commenced on 25<sup>th</sup> June 2011;
3. On 20<sup>th</sup> January 2021 the Applicant served a Notice to Quit and a Notice in terms of Section 33 of the 1988 Act upon the Respondent, each requiring vacant possession as at 25 July 2021;

4. The Applicant presented an application to the Tribunal seeking an Order for eviction, said application to the Tribunal being dated 27<sup>th</sup> July 2021;
5. The Applicant intimated a Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 upon Moray Council;

## **THE CASE MANAGEMENT DISCUSSION**

6. The case called for a Case Management Discussion on 1<sup>st</sup> November 2021 at 10am. The case called by way of teleconference;
7. The Applicant was represented by Miss R Garner of Cluny Estate Agents, Forres. The Respondent did not participate in the Case Management Discussion. The Tribunal was in receipt of a certificate of service by Sheriff Officers confirming that the date, time and details for joining the Case Management Discussion, together with a set of case papers had been intimated upon the Respondent. In the circumstances, the Tribunal, being satisfied in terms of Rule 24 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 that the Respondent had received reasonable Notice of the same, determined that it was appropriate to proceed in accordance with Rule 29 of the said rules;
8. Mr Garner moved the Tribunal to grant the order for eviction. In the absence of the Respondent, there was no information placed before the Tribunal to enable it to conclude that it was not reasonable to grant the order;
9. Miss Garner did advise the Tribunal that there had been discussions with a relative of the Respondent and she understood he intended removing himself from the Property on the afternoon of 1<sup>st</sup> November 2021. Nevertheless, given that at the time of the Case Management Discussion the Respondent was still in occupation of the Property, the order for eviction was still sought;

## **FINDINGS IN FACT**

10. The Tribunal found the following facts to be established:-
  - a) By Lease dated 25<sup>th</sup> June 2011 the Applicant Let the property to the Respondent. Prior to signing of the lease the Applicant was served with, and signed, a form in terms of Section 32 of the Housing (Scotland) Act 1988;
  - b) The lease is a short assured tenancy;
  - c) The Lease commenced on 25<sup>th</sup> June 2011;
  - d) On 20<sup>th</sup> January 2021 the Applicant served a Notice to Quit and a Notice in terms of Section 33 of the 1988 Act upon the Respondent, each requiring vacant possession as at 25<sup>th</sup> July 2021;
  - e) The Applicant intimated a Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 upon South Lanarkshire Council;

## **REASONS FOR DECISION**

11. The documentation submitted to the Tribunal with the application confirmed that the statutory requirements for the Applicant to seek an order for eviction had been complied with. In the circumstances, there being no information to enable the Tribunal to conclude otherwise, the Tribunal concluded that it was reasonable to grant the Order sought;

## **DECISION**

The Tribunal granted an Order against the Respondent for possession of the property under Section 33 of the Housing (Scotland) Act 1988, said order not to be enforced prior to 12 Noon on 8<sup>th</sup> December 2021.

## **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.**

**Legal Member: Virgil Crawford**

**Date: 01 November 2021**

