



**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/22/3953**

**Property: 97 Crowlin Crescent, Glasgow G33 3PR ("Property")**

**Parties:**

**Ecosse Estates Limited, Office 2 Room 8, Kirkhill House, 81 Broom Road East, Newton Mearns, Glasgow G77 5LL ("Applicant")**

**Holly Combs, 97 Crowlin Crescent, Glasgow G33 3PR ("Respondent")**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Eileen Shand (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined that an order for possession of the Property should be made.**

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E on 27 October 2022. The documents produced were: Short Assured Tenancy Agreement dated 18 January 2016; AT5 dated 17 January 2016; Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") both dated 10 May 2022 addressed to the Respondent; sheriff officer's certificate of service dated 12 May 2022; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 27 October 2022 and statement of rent arrears as at 27 October 2022.

**Case Management Discussion ("CMD")**

A CMD took place on 23 February 2023. Both Parties were in attendance. Reference is made to the Note of the CMD. The points on which the Parties agreed are set out at section C of the Note. The matters to be resolved are set out at section D and are :

1. Whether it would be reasonable to grant an order for eviction.
2. Whether the rent arrears stated to be due take account of all payments received.
3. Whether all the rent is due or whether, due to repair issues, some rent is not due.
4. On what basis the reduction in rent is claimed or rent is withheld.
5. The actual amount of rent due.
6. Steps taken by the Parties to resolve the matters in dispute.

### **Direction**

Following the CMD the Tribunal issued a Direction seeking further information from the Parties to be lodged by 24 March 2023 with any reply to the representations from the opposing Party to be lodged by 17 April 2023. The Applicant lodged a timeous response to the Direction with supporting productions numbered pages 1 to 88. The Respondent did not respond to the Direction.

### **Hearing**

A Hearing was fixed to take place on 9 May 2023. On 8 May the Respondent sought a postponement as her son was in hospital and as she had applied for legal aid. The Hearing was postponed until 10 August 2023. The Hearing took place on 10 August 2023 by conference call. James McMillan of the Applicant was in attendance. There was no appearance by the Respondent.

Mr McMillan told the Tribunal that the rent was being paid via housing benefit. He said that the current arrears are £3131.97. He said that as far as he knew the Respondent continued to live in the Property. He understood she had a young child living with her. Mr McMillan said the Applicant had not received intimation of a legal aid application. He said that the Respondent had not responded to communications from the Applicant. The Tribunal asked about the issue raised regarding repairs to the floor in the Property. Mr McMillan said that a joiner had attended and reported that the issue was cosmetic. He said there was no issue regarding the floor and no repair had been carried out.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 18 January 2016.
2. The Respondent had signed the form AT5 on 17 January 2016.
3. The tenancy was for the period 18 January 2016 to 18 July 2016 and continued by tacit relocation.
4. A Notice to Quit dated 10 May 2022 was served on the Respondent on 12 May 2022 stating that the tenancy would terminate on 18 July 2022.
5. A Notice in terms of Section 33 of the 1988 Act dated 10 May 2022 was served on the Respondent on 12 May 2022 stating that possession of the property was required on 18 July 2022.
6. The tenancy reached its *ish* on 18 July 2022 and is not continuing by tacit relocation.
7. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The Tribunal noted that the tenancy had been properly created as a short assured tenancy. The Tribunal noted that a Section 33 Notice and Notice to Quit had been served on the Respondent giving two months' notice that the Applicant required possession of the Property. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

### **Decision**

The Tribunal grants an Order for possession of 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.**

**Legal Member:**

**Date: 10 August 2023**