



**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/21/1826

Re: Property at 49 Fisher Avenue, Kilsyth, G65 0LT (“the Property”)

Parties:

**Easilet Investments Ltd, C/O 1-2-Let, 104 Bellgrove Street, Glasgow, G31 1AA
 (“the Applicant”)**

**Mrs Karen Boyle, 49 Fisher Avenue, Kilsyth, Glasgow, G65 0LT (“the
Respondent”)**

Tribunal Members:

George Clark (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be decided without a
Hearing and made an Order for Possession of the Property**

Background

By application, received by the Tribunal on 29 July 2021, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy.

The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 1 June 2015 and, if not terminated on 2 June 2016, continuing on a monthly basis until ended by either Party. The Applicant also provided a copy of a Form AT5 Notice dated 1 June 2015, a Notice given under Section 33 of the 1988 Act and a Notice to Quit, both dated 7 December 2020, with proof of delivery of both Notices by sheriff officer on 10 December 2020. The Notice

to Quit required the Respondent to vacate the Property by 2 March 2021 and the Section 33 Notice required her to remove by 2 July 2021.

On 18 November 2021, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 9 December 2021. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the afternoon of 21 December 2021. The Applicant was represented by Mr Mike Pantony of 1-2-Let, Glasgow. The Respondent was not present or represented. The Applicant's representative told the Tribunal that the Applicant had already been granted an Order for Payment in respect of unpaid rent in the sum of £3,650, that the arrears now stood at £4,075 and that the Respondent had made no effort to engage with any agencies that might have been able to assist her. The arrears had begun some two years ago, so pre-dated the COVID-19 pandemic. Mr Pantony contended that it was, therefore, reasonable to make the Order sought.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Section 33 of the 1988 Act states that the Tribunal shall make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence and that the landlord has given to the tenant notice stating that he requires possession of the house. In terms of the Coronavirus (Scotland) Act 2020, the Tribunal must also consider that it is reasonable to make the Order for Possession.

The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been properly given. Accordingly, the requirements of Section 33 had been met and the Tribunal was bound to make an Order for Possession of the Property if, in terms of the Coronavirus (Scotland) Act 2020, it considered it reasonable to do so.

Having considered carefully all the evidence before it, and, noting in particular the level and duration of rent arrears and the fact that the Respondent had not made any written representations and had not participated in the Case Management Discussion, the Tribunal decided that it was reasonable to make an Order for Possession.

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.

George Clark

Legal Member/Chair

Date: 21 December 2021