

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/21/2243

**Re: Property at 28 Millhouse Crescent, Kelvindale, Glasgow, G20 0UD (“the
Property”)**

Parties:

**Dr Youcef Ahmed-Said, Dr Youcef Ahmed-Said, c/o Happy Lets Ltd, 1281 Argyle
Street, Glasgow, G13 8TL; 17 Innellan Gardens, Flat 1/1, Glasgow, G20 0DX (“the
Applicant”)**

**Miss Kerri Fraser, 28 Millhouse Crescent, Kelvindale, Glasgow, G20 0UD (“the
Respondent”)**

Tribunal Members:

George Clark (Legal Member) and Tony Cain (Ordinary Member)

Decision

**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 15 September 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 September 2014 and, if not terminated on 2 September 2015, continuing on a monthly basis until ended by either Party. The Applicant also provided a copy of a Form AT5 Notice dated 22 August 2014, a Notice given under Section 33 of the 1988 Act and a Notice to Quit, both dated 9 October 2020, with proof of delivery of both Notices by sheriff officer on 14 October 2020. The

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

In written representations, the Applicant's representatives, Happy Lets Ltd, Glasgow stated that the rent had been in arrears since 2019 and that, at that the arrears stood at £2,050. Initially, the Applicant had been happy to help the Applicant and to have a payment plan, but the Respondent had failed to keep up the payments and no payment had been received since 1 September 2021. The Applicant's representatives had tried to assist the Respondent as much as possible, including offering information about the Tenant Hardship Loan Fund and advising her to speak to Citizens Advice. They provided copies of various emails sent to the Respondent, from which it appeared that she would be content to leave, once she had secured alternative accommodation from the local authority. In an email of 8 November 2021, they advised the Respondent that the arrears now stood at £2,650 and offered help with any documentation the Respondent required to support her housing applications.

On 16 December 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 6 January 2022. 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 20 January 2022. The Applicant was represented by Ms Amanda Currie of Happy Lets Ltd, Glasgow. The Respondent was present, and her mother, Mrs Shirley Fraser, spoke on her behalf. Ms Currie told the Tribunal that, although the Respondent had made a payment of £400 on 6 December 2021, no payment had been made since then, and the arrears were now £3,450.

Mrs Fraser told the Tribunal that the Respondent had moved in with her but needed some time to remove her furniture and belongings from the Property. She accepted that the Tribunal would probably decide that it was reasonable to make an Order for Possession, given the length of time that the rent had been in arrears and the level of arrears. The Tribunal advised that any Order it decided to make would not be enforceable before 22 February 2022 and Mrs Fraser understood that, if the Respondent moved her belongings out sooner and returned the keys to the Applicant's representative, she would only be liable to pay rent up to the date that the keys were returned.

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

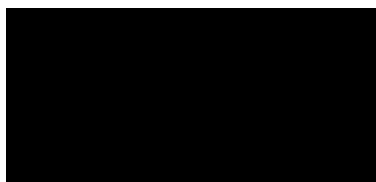
to the tenant notice stating that he requires possession of the house. In terms of the Coronavirus (Scotland) Act 2020, the Tribunal must also consider that it is reasonable to make the Order for Possession.

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. The Applicant had also complied with the requirements of The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. 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.

The Tribunal considered carefully all the evidence before it, and, noted in particular that the rent had been in arrears since July 2019 and had exceeded £1,000 since May 2020. The Tribunal also noted that the Respondent had decided to move out of the Property. Accordingly, 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.



Legal Member/Chair

20 January 2022
Date