



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

Chamber Ref: FTS/HPC/EV/21/0466

Re: Property at 3/1 1 Arrochar Street, Glasgow, G23 5PJ (“the Property”)

Parties:

Mrs Janet MacFarlane, 15 Laburnum Avenue, Glasgow, G72 7BJ (“the Applicant”)

Mr Fraser Paterson, 3/1 1 Arrochar Street, Glasgow, G23 5PJ (“the Respondent”)

Tribunal Members:

Virgil Crawford (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

BACKGROUND

1. By lease dated 20 July 2017 the Applicant let the property to the Respondent;
2. The initial period of let was a period of 6 months from 20 July 2017 until 20 January 2018;
3. Prior to signing the lease the Respondent was also served with, and signed, a Notice in terms of s32 of the Housing (Scotland) Act 1988 (“the 1988 Act”) – commonly referred to as a Form AT5. The tenancy created was, therefore, a Short Assured Tenancy in terms of the 1988 Act;
4. After the Tenancy Agreement was signed it appears that a Notice to Quit was served upon the Respondent requiring vacant possession no later than 20 January 2018. There was, however, no proof of service of this document nor any signed acknowledgment of receipt of it by the Respondent;

5. On 23 July 2020, a further Notice to Quit and, separately, a Notice in terms of s33 of the 1988 Act were forwarded to the Respondent by Recorded Delivery post and a signed proof of delivery was produced by the Applicant;
6. The Notice to Quit and the Notice in terms of s33 of the 1988 Act both required vacant possession of the property as at 20 February 2021;
7. An Application was presented to the Tribunal on 26 February 2021 seeking an order for eviction of the Respondent from the property;

THE CASE MANAGEMENT DISCUSSION

8. The Applicant did not participate in the Case Management Discussion. She was, however, represented by Sharon Campbell of Glasgow Sales and Letting. Grace McDonald of Glasgow Sales and Letting was also on the telephone line but acted as an observer;
9. The Respondent did not participate in the Case Management Discussion. The Tribunal was in receipt of an execution of service by sheriff officers confirming that the place, date and time of the Case Management Discussion had been intimated to the Respondents, together with a copy of the case papers. In the circumstances the Tribunal, being satisfied in terms of Rule 24 of the FTT Rules that the Respondent had received reasonable notice of the same determined that it was appropriate to proceed in accordance with Rule 29 of the FTT Rules;
10. Miss Campbell advised the Tribunal that she was seeking an order of eviction against the Respondent. She advised the Tribunal that there had been little contact with the Respondent and, separately, that there were arrears of rent;

FINDINGS IN FACT

11. The Tribunal found the following facts to be established:-
 - a) By lease dated 20 July 2017 the Applicant let the property to the Respondent;
 - b) The initial period of let was a period of 6 months from 20 July 2017 until 20 January 2018;
 - c) Prior to signing the lease the Respondent was also served with, and signed, a Notice in terms of s32 of the Housing (Scotland) Act 1988 ("the 1988 Act") – commonly referred to as a Form AT5. The tenancy created was, therefore, a Short Assured Tenancy in terms of the 1988 Act;
 - d) On 23 July 2020, a further Notice to Quit and, separately, a Notice in terms of s33 of the 1988 Act were forwarded to the Respondent by Recorded Delivery post and a signed proof of delivery was produced by the Applicant;

- e) The Notice to Quit and the Notice in terms of s33 of the 1988 Act both required vacant possession of the property as at 20 February 2021;
- f) An Application was presented to the Tribunal on 26 February 2021 seeking an order for eviction of the Respondent from the property;
- g) The Respondent is in arrears of rent and is not maintaining contact with the Applicant;
- h) It is reasonable in the circumstances that an order for eviction be granted;

REASONS FOR DECISION

12. The Tribunal was dealing with a Short Assured Tenancy in which the necessary requirements to terminate it had been complied with. A Notice to Quit had been served upon the Respondent. A Notice in terms of s33 of the 1988 Act had been served upon the Respondent. Both Notices allowed for a period in excess of 6 months for vacant possession;
13. The Respondent did not participate in the proceedings and, in the circumstances, no information was put before the Tribunal to oppose the making of an Order for Eviction;
14. The Tribunal was advised that the Respondent was in arrears of rent and was not communicating with the Applicant.

DECISION

The Tribunal granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

Order not to be executed prior to 12 noon on 14 July 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.

Virgil Crawford

Legal Member/Chair

7 June 2021

Date
