



**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/18/2987

**Re: Property at 123 Newton Avenue, Barrhead, East Renfrewshire, G78 2PS
("the Property")**

Parties:

**Mrs Stephanie Nicoll aka Nash, 24 Appleton Drive, Eliburn, Livingston, EH54
6FP ("the Applicant")**

**Miss Michelle Docherty, 123 Newton Avenue, Barrhead, East Renfrewshire,
G78 2PS ("the Respondent")**

Tribunal Members:

Joel Conn (Legal Member)

Decision

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

Background

1. This is an application by the Applicant for an order for possession on termination of a short assured tenancy in terms of rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended ("the Procedure Rules"). The tenancy in question was a Short Assured Tenancy of the Property by the Applicant to the Respondent commencing on 30 July 2015.
2. The application was dated 1 November 2018 and lodged with the Tribunal shortly thereafter.
3. The application relied upon a Notice to Quit and notice in terms of section 33 of the Housing (Scotland) Act 1988, both dated 28 August 2018,

providing the Respondent with notice (respectively) that the Applicant sought to terminate the Short Assured Tenancy and have the Respondent vacate, each by 31 October 2018. Evidence of service of the said notices by Sheriff Officers upon the Respondent on 30 August 2018 was provided to the Tribunal by email on 7 January 2019.

4. Evidence of a section 11 notice dated 1 November 2018 in terms of the Homelessness Etc. (Scotland) Act 2003 served upon East Renfrewshire Council was provided with the application.

The Hearing

5. On 17 January 2019, at a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting at the Glasgow Tribunals Centre, I was addressed by the Applicant, who was accompanied by Mark Shanta, of Shanta Lettings, the former letting agent for the Applicant.
6. There was no appearance by the Respondent. The Applicant and Mr Shanta both stated that no contact had been received from the Respondent since mid-October 2018 and that contact had only requested a note of rent arrears, making no comment about vacating the Property in terms of the notices served. The Applicant had more recently been contacted by neighbours at Newton Avenue, Barrhead, who believed the Respondent had vacated the Property but neither the Applicant nor Mr Shanta knew if that was the case. The clerk confirmed that no contact had been received by the Tribunal from the Respondent. In the circumstances, I was satisfied to proceed in the absence of the Respondent.
7. The Applicant confirmed that the application for eviction was still insisted upon and no order for expenses was sought.

Findings in Fact

8. On 30 July 2015, the Applicant let the Property to the Respondent by lease with a start date of 30 July 2015 until 31 January 2016 to "continue from month to month thereafter until terminated" ("the Tenancy").
9. The Tenancy was a Short Assured Tenancy in terms of the Housing (Scotland) Act 1988 further to the Applicant issuing the Respondent with a notice under section 32 of the 1988 Act (an "AT5") on 30 July 2015, prior to commencement of the Tenancy.
10. On 28 August 2018, the Applicant drafted a Notice to Quit in correct form addressed to the Respondent, giving the Respondent notice that the Applicant wished her to quit the Property by 31 October 2018.

11. On 28 August 2018, the Applicant drafted a Section 33 Notice under the 1988 Act addressed to the Respondent, giving the Respondent notice that the Applicant required possession of the Property by 31 October 2018.
12. 31 October 2018 is an ish date of the Tenancy.
13. On 30 August 2018, Sheriff Officers acting for the Applicant competently served each of the notices upon the Respondent. The Respondent was thus provided with sufficient notice of the Applicant's intention that the Tenancy was to terminate on 31 October 2018.
14. On 1 November 2018, the notice period under the notices having expired, the Applicant raised proceedings for an order for possession with the Tribunal, under Rule 66, the grounds of which being that the Tenancy had reached its ish; that tacit relocation was not operating; that no further contractual tenancy was in existence; and that notice had been provided that the Applicant required possession of the Property all in terms of section 33 of the 1988 Act.
15. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon East Renfrewshire Council on or around 1 November 2018 on the Applicant's behalf.
16. On 28 December 2018, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 17 January 2019.

Reasons for Decision

17. The application was in terms of rule 66, being an order for possession upon termination of a short assured tenancy. I was satisfied on the basis of the application and supporting papers that the necessary notices had been served with sufficient notice, the Respondent was extending no defence or dispute to the notices, and thus the requirements of the 1988 Act had been complied with.
18. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. I was thus satisfied to grant an order for possession.

Decision

19. In all the circumstances, I make the decision to grant an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988 in normal terms.

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.

Joel Conn

Legal Member/Chair

17 January 2019

Date