

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/19/0510

Re: Property at 13 Burdiehouse Square, Edinburgh, EH17 8BN (“the Property”)

Parties:

Mr Iain Murray, 21B South Oswald Road, Edinburgh, EH9 2HQ (“the Applicant”)

Ms Sharon Robertson, 13 Burdiehouse Square, Edinburgh, EH17 8BN (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent(s) for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

- Background

An application was submitted to the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application was dated 14 February 2019 and sought an order for repossession on termination of a short assured tenancy under section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”).

- The Case Management Discussion

A Case Management Discussion (“CMD”) took place on 3 May 2019. The Applicant was personally present. There was no appearance by or on behalf of the Respondent. The Tribunal was satisfied that a copy of the application had been served at the Property by Sheriff Officer on 12 April 2019 and in terms thereof the Respondent had fair notice of the time and date of the CMD. The Tribunal was satisfied that the CMD could proceed in the Respondent’s absence.

The Applicant sought the repossession order in terms of the application. The Respondent had been served with a Notice to Quit and Notice in terms of section 33 of the 1988 Act. Said notices had been served on the Respondent by Sheriff Officer on 29 October 2018. Said notices required the Respondent to remove from the property by 1 February 2019. The Respondent had failed to remove from the Property and continued to occupy the property. The order was accordingly necessary.

- Findings in Fact

The Tribunal made the following findings in fact:

1. The parties entered into a Short Assured Tenancy as defined by section 32 of the 1988 Act;
2. Said tenancy agreement commenced on 2 February 2011 until 1 February 2012, after which it continued on an annual basis until terminated by either party giving no less than 2 months' notice to the other party;
3. The Applicant served a Notice to Quit and Notice under section 33 of the 1988 Act by Sheriff Officer on the Respondent, on 29 October 2018;
4. Said notices required the Respondent to remove from the Property by 1 February 2019;
5. The Applicant had given the Respondent at least two months' notice that repossession was required;
6. The Respondent had failed to remove from the Property as requested and continued to occupy the Property at the date of the CMD.

- Reasons for Decision

The Tribunal was satisfied that the requirements of section 33 of the 1988 Act had been met. Namely: the tenancy had reached its' ish as at 1 February 2019; tacit relocation was not in operation; no further contractual tenancy was in existence; and a notice had been served in terms of section 33 giving at least 2 months' notice to the tenant that repossession was required. Accordingly, the Tribunal was satisfied that the Order should be granted as sought.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for possession of the Property under section 33 of the Housing (Scotland) Act 1988

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.

Fiona Watson
Legal member/Chair

3/5/19
Date