



**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/19/3196**

**Re: Property at 12 B/2 Rutland Square, Edinburgh, EH1 2BB (“the Property”)**

**Parties:**

**Trust of RG Argyle Robinson, Trust of RG Argyle Robinson, Linton Mill, Mill Wynd, East Linton, EH40 3AE (“the Applicants”)**

**Miss Stephanie Albig, Mr Dominic Jackman, 12 B/2 Rutland Square, Edinburgh, EH1 2BB (“the Respondents”)**

**Tribunal Members:**

**Jim Bauld (Legal Member)**

**Decision (in absence of the Respondents)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for possession should be granted**

**Background**

By application received 8 October 2019, the Applicants sought an order under section 33 of the Housing (Scotland) Act 1988 (“the Act”) and in terms of rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Tribunal Rules”).

On 23 October 2019 the application was accepted by the tribunal and referred for determination by the tribunal.

A Case Management Discussion (CMD) was set to take place on 13 December 2019 and appropriate intimation of that hearing was given to both the landlord and the tenant. The CMD was postponed and a fresh CMD was set for 31 January 2020. On

that date, the CMD proceeded but was adjourned to 25 February 2020. Appropriate intimation of that date was given to all parties.

### **The Case Management Discussion**

The Case Management Discussion (CMD) took place on 25 February 2020 December 2019. The applicants were not personally present but were represented by Mr Michael Logan from Rettie and Co., 4 Jamaica Street, Edinburgh, EH3 6HH. The Respondents did not attend and were not represented

The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters

The tribunal asked various questions of the representative with regard to the application and the ground for eviction contained within it.

The representative confirmed that he wished the order sought to be granted

### **Findings in Fact**

The Applicants and the Respondents as respectively the landlord and tenants entered into a tenancy of the property on 24 October 2017.

The tenancy was a short assured tenancy in terms of the Act

On 11 July 2019 the applicants served upon the tenants a notice to quit and a notice under section 33(1)(d) of the Act. The Notices became effective on 24 September 2019.

The notices informed the tenant that the landlord wished to terminate the tenancy and seek recovery of possession using the provisions of the Act.

The notices were correctly drafted and gave appropriate periods of notice as required by law.

The basis for the order for possession was accordingly established

### **Reasons for Decision**

The order for possession was sought by the landlord based on the provisions contained within section 33 of the Act. This process creates a mandatory basis for recovery of possession. The tribunal was satisfied that the notices had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon the provisions of the Act

The representative also advised the tribunal that it appeared the tenants had now abandoned the property. An inspection had been carried out on 24 February and a note had been left on the door indicating that Ms Albig had moved to Germany and providing forwarding address for Mr Jackman.

In all the circumstances, the tribunal was also content to exercise the power contained within rule 17(4) of the Tribunal rules to make a final decision on the application at the CMD.

### **Decision**

The order for recovery of possession is granted

### **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.**

Jim Bauld  
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Legal Member/Chair

*25 February 2020*  
\_\_\_\_\_  
Date