



**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 ('the Act')**

Chamber Ref: FTS/HPC/EV/19/0947

**Re: Property at 46 Hillview Street, Glasgow G32 7BQ
(‘the Property’)**

PARTIES:

**Mrs Evelyn McGroarty, 53 Queens Avenue London N20 0JB
(‘the Applicant’)**

**Represented by Ms Jennifer Grosvenor, Solicitor, Harper Macleod LLP, The
Ca’d’oro Building, 45 Gordon Street, Glasgow**

**Ms Tracey McGeachy present whereabouts Unknown
[Service by Advertisement]
(‘the Respondent’)**

TRIBUNAL:

**Joseph C Hughes
Eilidh MacMillan**

**(Legal Member/Chair)
(Clerk of the Tribunal)**

DECISION [in absence of the Respondent]

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the
Tribunal’) determined that the Application should be decided without a full
hearing and granted an Order for Possession.**

BACKGROUND

By Application dated 22nd March 2019 and received on 25th March 2019, the Applicant sought an Order under Section 33 of the Housing (Scotland) Act 1988 and in terms of Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ('the Regulations').

On 22nd May 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 18th July 2019 at 10.00 am within Glasgow Tribunals Centre and appropriate intimation of that hearing was given to both parties. The Respondent was invited to make written representations but she did not submit any submissions to the Tribunal. The present whereabouts of the Respondent is unknown. The proceedings continued by means of service by advertisement. The tribunal secretariat lodged a Certificate of Service by Advertisement dated 18th July 2019. A copy of this Certificate was provided to Ms Grosvenor in advance of the case calling this morning.

The tribunal considered the Application and all documentary productions. The Tribunal had sight of the Short Assured Tenancy Agreement, Form AT5, Notice to Quit, Section 33 Notice, Sheriff Officer's Certificate of Service, Section 11 Notice and email to Local Authority intimating Section 11 Form.

THE CASE MANAGEMENT DISCUSSION

The Applicant did not attend in person.

Ms Jennifer Grosvenor of Harper Macleod attended on behalf of the Applicant.

The Respondent did not attend. Her whereabouts is unknown. Intimation of today's CMD was effected by Service by Advertisement.

The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters. The tribunal asked various questions with regard to the Application. Updated information was noted.

The Property was raided by Police Scotland on 10th June 2019. The front door was overcome to obtain entry. The Applicant has since received an invoice in respect of the cost of the police securing the property after the search. The tenancy appears to have been abandoned. On 27th June 2019 the property was entered through the back door. All the furniture has been removed. The neighbours have not seen the Respondent. It has not been possible to trace the Respondent. The Respondent has

not returned the keys to the Property. The Applicant wishes the tribunal to grant the Order for Possession as sought in the Application. Ms Grosvenor invited me to grant an immediate extract for enforcement on the basis the Property has been abandoned.

FINDINGS IN FACT

(i) The Applicant and the Respondent are respectively the Landlord and Tenant. They entered into a tenancy of the property on 10th March 2015;

(ii) The Tenancy was a Short Assured Tenancy in terms of the Act;

(iii) On 28th December 2018 the Applicant served upon the Tenant a Notice to Quit and a Notice in terms of Section 33 (1) (d) of the Act. These were successfully served by Sheriff Officers;

(iv) The Notices informed the Tenant that the Landlord wished to seek recovery of possession using the provisions of Section 33 of the Act. The Respondent was due to leave the property as at 10th March 2019;

(v) The Notices were correctly drafted and gave appropriate periods of notice as required by law;

(vi) The Short Assured Tenancy Agreement between the Applicant and the Respondent has reached its end. Tacit relocation is not operating. No further contractual tenancy is in existence;

(vii) A section 11 Notice was emailed to Glasgow City Council on 21st March 2019 by the Applicant's representatives;

(viii) The basis for the Order for Possession was accordingly established.

REASONS FOR DECISION

Rule 17 of the Regulations 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 and that it would decide the application without a hearing.

Section 33 of the Act states that the tribunal must grant an Order for possession of a Short Assured Tenancy where the Short Assured Tenancy has reached its end, that tacit relocation is not operating, where no new contractual tenancy has been agreed between the Landlord and the Tenant and where the Landlord has given Notice to the Tenant in the manner required by Section 33 (1)(d) of the Act.

The Tribunal was satisfied that all of these requirements had been met by the service of the relevant notices and having regard to the evidence given by the Landlord.

Accordingly, the tribunal was satisfied that the reason for the Order for Possession had been established and that in terms of the relevant section, the tribunal was obliged to GRANT the Order sought.

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.

Joseph Hughes

'Joseph C Hughes'
Legal Chair [HPC]

18th July 2019.