



**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/19/2186

Re: Property at 39 Aikman Place, East Kilbride, G74 3JL (“the Property”)

Parties:

**Miss Jennifer Mitchell, c/o 31A North Bridge Street, Bathgate, West Lothian,
EH48 4PJ (“the Applicant”)**

**Mr Peter Macallister, 39 Aikman Place, East Kilbride, G74 3JL (“the
Respondent”)**

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. The parties entered into a Short Assured Tenancy between 11th October 2017 and 10th April 2018. The rent payments of £475 per month were due on the 11th day of each month in advance.
3. The Tribunal had before it the following documents:
 - a) Application dated 11th July 2019 received by the Housing and Property Chamber on 12th July 2019.

- b) Short Assured Tenancy Agreement signed 11th October 2017.
 - c) Form AT5 signed by the parties on 11th October 2017.
 - d) Notice to Quit dated requiring vacant possession as at 10th July 2019 with sheriff officer certificate of intimation dated 5th June 2019.
 - e) Section 33 Notice dated 15th March 2019 stating that the tenancy terminates on 10th June 2019 with proof of recorded delivery service dated 20th March 2019.
 - f) Title deeds with reference LAN81202.
 - g) Section 11 Notice noting date of raising proceedings 11th July 2019.
4. On 20th August 2019, all parties were written to with the date for the Case Management Discussion (“CMD”) of 1st October 2019 at 11.30am at Glasgow Tribunal Centre, York Street, Glasgow. The letter also requested all written representations be submitted by 20th August 2019.
5. On 23rd August 2019, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service and first class post. This was evidenced by Certificate of Citation dated 23rd August 2019.

Case Management Discussion

6. The Tribunal held a Case Management Discussion (“CMD”) on 1st October 2019 at 11.30am at Glasgow Tribunal Centre, York Street, Glasgow. The Applicant was not present but was represented by Miss Kirstie Donnelly, solicitor from Bannatyne Kirkwood France & Co. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. The Respondent was written to on 20th August 2019 asking for any representations to be sent to the Housing and Property Chamber no later than 7th September 2019. No representations were submitted. Miss Donnelly informed the Tribunal that the Respondent is still in the tenancy. He has approached the local authority regarding this and is due to be rehouse by them in November. The Tribunal was satisfied that all the documents had been appropriately served and there was no ground for discretion.

Findings in Fact

7. The parties entered into a Short Assured Tenancy on 11th October 2017 with the commencement of the tenancy on 11th October 2017 for a 6 months period until 10th April 2017 which was then continued thereafter by tacit relocation. An AT5 was signed by both parties on the same date as the lease. The rent payments of £475 are due on the 11th day of each month.
8. The Housing and Property Chamber received an Application on 12th July 2019.

Reasons for Decision

9. The Tribunal was satisfied that the notices had been served in an appropriate manner and that a Short Assured Tenancy had been entered into by the parties. Given this the Tribunal was satisfied all appropriate paperwork had been served the Order for repossession was granted.

Decision

10. The Applicant is entitled to for an Order of for recovery of possession.

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.

Gabrielle Miller

Legal Member/Chair

Date

1 OCT 19