



**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 1988 Act”)**

Chamber Ref: FTS/HPC/EV/18/0992

Re: Property at 18/12 Colonsay View, Edinburgh, EH5 1FJ (“the Property”)

Parties:

Northern Housing Company Limited, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)

Ms Fatou Baldeh, 18/12 Colonsay View, Edinburgh, EH5 1FJ (“the Respondent”)

Tribunal Members:

Sarah O’Neill (Legal Member)

Decision (in absence of the Respondent)

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

Background

An application was received on 25 April 2018 under rule 66 of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”) seeking recovery of possession of the property under a short assured tenancy by the applicant against the respondent.

The application included: the tenancy agreement; a copy of the AT5; a copy of the notice required under section 33 of the 1988 Act (‘the section 33 notice’); and a copy of the Notice to Quit, together with certificates of service for the Notice to Quit and the section 33 notice.

Notice of the case management discussion, together with the application papers and guidance notes, had been served on the respondent by sheriff officers on behalf of the tribunal on 21 May 2018.

The Case Management Discussion

A case management discussion was held on 19 June 2018 at George House, 126 George Street, Edinburgh EH2 4HH. The applicant was represented by Mr Neil Matheson of TC Young Solicitors and by Ms Lindsay Hart, Estates Officer with the applicant. The respondent was not present. No written representations had been received from the respondent.

The applicant's representatives told the tribunal that they understood that the respondent was out of the country at present, but that members of her family were still living at the property, and that she was aware of the tribunal proceedings.

The tribunal was satisfied that the requirements of rule 24(1) of the 2017 rules regarding the giving of notice of a hearing had been duly complied with. It therefore proceeded with the case management discussion on the basis of the representations made by the applicant's representatives, and all the material before it.

Mr Matheson on behalf of the applicant referred the tribunal to the papers which had been lodged in support of the application, including the tenancy agreement, form AT5, Notice to Quit, section 33 notice and certificate of service.

Findings in Fact

The tribunal made the following findings in fact:

- The applicant is the registered landlord for the property. The property is owned by Hillcrest Housing Association Limited. The applicant is part of the Hillcrest Group of Companies.
- There was a tenancy in place between the applicant and the respondent. The tenancy commenced on 28 March 2017 for an initial period of 6 months until 29 September 2017. It then continued on a monthly basis thereafter.
- The AT5 form was in the prescribed format and had been signed by the respondent on 28 March 2017. The tenancy agreement had been signed by the parties on the same date. The tribunal was therefore satisfied that there was a short assured tenancy in place between the parties.
- The Notice to Quit and section 33 notice both contained the prescribed information and both were dated 11 January 2018. These notices stated that the applicant required vacant possession of the property on or before 29 March 2018.
- There was evidence that the Notice to Quit and section 33 notice had been served by sheriff officer on 16 January 2018, providing more than two months' notice of vacant possession. These notices had been served on the respondent at a different address, 18/6 Colonsay View. The applicant's representatives confirmed that the respondent had been temporarily decanted

to this address between 3 October 2017 and 25 January 2018. The tribunal was satisfied that these notices had been validly served on the respondent.

Reasons for Decision

Section 33 of the 1988 Act requires the tribunal to grant an order for possession under a short assured tenancy where: the tenancy has reached its end; tacit relocation is not operating; no further contractual tenancy for the time being is in existence; and the landlord has given notice to the tenant that they require possession of the house. The tribunal is satisfied that these requirements have been met. The tribunal is therefore required to grant an order for possession under section 33 of the 1988 Act.

Decision

The tribunal grants an order in favour of the applicant against the respondent for recovery of possession of the property.

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.

Sarah O'Neil

Legal Member/Chair

19/6/18

Date