

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 (hereinafter referred to as “the 1988 Act”) for Recovery of Possession of a short assured tenancy

Chamber Ref: FTS/HPC/EV/18/0228

Re: Property at 10 Magdalene Loan, Edinburgh, EH15 3DP (“the Property”)

Parties:

Kim Mooney, 15 Champigny Court Musselburgh, EH21 7HW (“the Applicant”)

Romans Mamrukovs, 10 Magdalene Loan, Edinburgh, EH15 3DP (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application for Recovery of Possession on termination of a short assured tenancy under Section 33 of the Housing (Scotland) Act 1988. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained to parties. Parties understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant was represented by Kirsty Morrison, TC Young Solicitors

The Respondent attended the Tribunal personally without representation.

Preliminary Matters

There were no preliminary matters arising.

Decision

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

Facts Agreed Between Parties

1. Both parties accepted that the Applicant was the heritable proprietor of the Property.
2. Both parties accepted that the AT5 had been served correctly at the outset of the tenancy and that the tenancy was a short assured tenancy.
3. Both parties accepted that the relevant notices were valid and had been served terminating the short assured tenancy.

Reasons for Decision

4. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.
5. The Tribunal was satisfied that the tenancy was in terms of Section 32(1) of the 1988 Act, a short assured tenancy for not less than 6 months and in relation to which a prescribed notice namely a valid AT5 had been served before creation of the short assured tenancy. The Respondent accepted that the AT5 had been served correctly at the outset of the tenancy.
6. In terms of Section 33 of the 1988 Act the Tribunal considered that the Short Assured Tenancy had reached its end.
7. Further the Tribunal was satisfied that no tacit relocation was operating, no further contractual tenancy was in existence and a valid Notice to Quit had been served on the Respondent terminating the tenancy with the necessary notice given to the Respondent.
8. The Respondent accepted that the relevant notices had been received by him.
9. Accordingly in terms of Section 33 of the 1988 Act the Tribunal granted an order against the Respondent for 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.

K Kirk

Legal Member/Chair

Date

30/4/18.