



**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/21/0700**

**Re: Property at 1/2 63 Walter Street, Dennistoun, Glasgow, G31 3PX (“the Property”)**

**Parties:**

**Mr William Burgess, The Elms, Kirkcolm, Stranraer, DG9 0NT (“the Applicant”)**

**Mr Samuel Casey, 1/2 63 Walter Street, Dennistoun, Glasgow, G31 3PX (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Leslie Forrest (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property**

**Background**

By application to the Tribunal dated 19 March 2021, the Applicant sought an Order for Possession of the Property against the Respondent in terms of Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”).

The application was accompanied by copies of a Short Assured Tenancy Agreement between the Parties from 20 October 2014 to 21 October 2015 and, if not ended by either Party on that date, continuing on a monthly basis until ended by either Party; a Notice to Quit dated 4 August 2020, requiring the Respondent to remove from the Property by 21 October 2020, with proof of service by sheriff officer on 18 August 2020; and a Notice dated 4 August 2020 given under Section 33 of the 1988 Act, advising the Respondent that the Applicant required possession of the Property on 21 October 2020, again with proof of service by sheriff officer on 18 August 2020.

On 22 April 2021, the Tribunal advised the Parties of the date and time of a Case Management Discussion. That letter and the case papers were validly served on the

Respondent by sheriff officers on 23 April 2021. The Respondent did not make any written representations to the Tribunal, but on 25 May 2021 asked the Tribunal to postpone the Case Management Discussion, scheduled for the following day. The Tribunal refused the request for postponement and issued its Decision to that effect.

### **Case Management Discussion**

A Case Management Discussion was held by means of a telephone conference call on the morning of 26 May 2021. The Applicant was represented by Mr Mike Pantony of 1-2-Let Limited, 104 Bellgrove Road, Glasgow. The Respondent also participated in the conference call.

The Tribunal Chair explained to the Parties that the Tribunal was satisfied that the requirements of Section 33 of the 1988 Act had been met, but that, as a result of the Coronavirus (Scotland) Act 2020, the Tribunal had to be satisfied that it was reasonable to make an Order for Possession. The Respondent explained his personal circumstances, including the fact that he has no dependants living with him at the Property, and confirmed that he had been in contact with the Homeless Unit at City of Glasgow Council regarding being re-housed.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 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 to decide the application without a Hearing.

Section 33 of the 1988 Act, as amended by Schedule 1, para 3(4) of the Coronavirus (Scotland) Act 2020 states that the Tribunal may make an Order for Possession of the house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that the landlord has given to the tenant notice stating that he requires possession of the house and that it is reasonable to make an Order for Possession.

The Tribunal was satisfied that the Short Assured Tenancy had reached its end and that, by service of a Notice to Quit, tacit relocation was not operating. It was also satisfied that the Applicant had given the requisite Notice under Section 33 of the 1988 Act.

The Tribunal noted that the Respondent had received the Notice to Quit on 18 August 2020, so had had a period of some nine months to seek alternative accommodation. The Tribunal accepted that this would have been more difficult during the COVID-19 lockdown period but, having taken into account all the information before it, the Tribunal decided that it was reasonable to grant the application for an Order for 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.

**G.C.**

25<sup>th</sup> May 2021

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**Legal Member/Chair**

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**Date**