



**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/20/1034

Re: Property at 224 Oldwood Place, Livingston, EH54 6XB (“the Property”)

Parties:

Mrs Annette Horn, 18 Stevenson Close, Heighington, Lincoln, LN4 1GP (“the Applicant”)

Mr Aaron Kane, 224 Oldwood Place, Livingston, EH54 6XB (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the Property should be granted against the Respondent

Background

1. This is an application received in the period from 6th April to 17th June 2020, made in terms of Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) and Section 33 of the Housing (Scotland) Act 1988 (“the Act”). The Applicant is seeking recovery of possession on termination of a short assured tenancy that commenced on 28th May 2015, with an initial term to 27th November 2015 and monthly thereafter. The Applicant’s representative lodged a copy of the tenancy agreement between the parties, together with copy Form AT5 dated 28th May 2015, copy Notice to Quit and Section 33 Notice dated 20th and served on 26th November 2019, requiring the Respondent to leave by 27th January 2020, and copy Section 11 Notice submitted on 6th April 2020.

2. Sheriff Officers served the application and notification on the Respondent on 30th July 2020.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by teleconference call on 20th August 2020. The Applicant was not in attendance and was represented by Mr Gregory Bird. The Respondent was in attendance.
4. Both parties made representations concerning rent arrears. The Tribunal noted that this is a Section 33 application, and that the existence of rent arrears could not be taken into account. The issue was whether the correct notices had been served upon the Respondent and the contractual tenancy terminated.
5. Mr Bird said notices had been served and he was instructed to move for a decree for possession of the Property.
6. The Tribunal informed the Respondent that, providing the requisite notices had been served correctly, as seemed to be the case, the Tribunal had no discretion over whether or not to grant the order. The Respondent was advised to take advice on this matter from an appropriate advice agency and the local authority.

Findings in Fact

7.
 - (i) The parties entered into a short assured tenancy in respect of the Property on 28th May 2015, with an initial term to 27th November 2015 and monthly thereafter.
 - (ii) Notice to Quit and Section 33 Notice dated 20th November 2019 were served on the Respondent on 26th November 2019.
 - (iii) The short assured tenancy has reached its finish date.
 - (iv) The contractual tenancy terminated on 27th January 2020.
 - (v) Tacit relocation is not in operation.
 - (vi) The Applicant has given the Respondent notice that they require possession of the Property.

Reasons for Decision

8. Section 33 of the Act provides that the Tribunal shall make an order for possession if satisfied that the short assured tenancy has reached its finish and that tacit relocation is not operating. The contractual tenancy has been

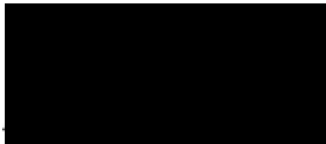
terminated and tacit relocation is not in operation. The Applicant has given the Respondent notice that she requires possession of the Property. In the circumstances, the Tribunal must grant the order sought.

Decision

9. An order for possession of the Property is granted against the Respondent.

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.



Legal Member/Chair

20th August 2020
Date