



**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/18/1745

Re: Property at 44 Katrine Place, Irvine, KA12 9LU (“the Property”)

Parties:

Mr Kendra Pun, 112 Pears Road, Hownslow, TW3 1SJ (“the Applicant”)

Mr Jason Winton, 44 Katrine Place, Irvine, KA12 9LU (“the Respondent”)

Tribunal Members:

G McWilliams (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined as follows:

Background

1. This is an Application dated 10th July 2018 brought in terms of Rule 66 (Application for order for possession upon termination of a short assured tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the 2017 Regulations”).
2. The Applicant provided the Tribunal, in the Application, with copies of the Short Assured Tenancy agreement, Form AT5, Notice to Quit, Section 33 Notice [Housing (Scotland) Act 1988] Section 11 Notice [Homelessness etc (Scotland) Act 2003] and relevant Executions of Service. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988, and the procedures set out in that Act had been correctly followed and applied.

3. The Respondent had been validly served by Sheriff Officers with copies of the Application papers and Guidance Notes, and a letter notifying him of today's Case Management Discussion, dated 24th October 2018, from the Tribunal on 25th October 2018. The Sheriff Officers' Execution of Service was produced.

Case Management Discussion

4. A Case Management Discussion was held on 15th November 2018 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant did not appear. He was represented by Ms L Graham and Me E Fitzpatrick of R&J Lettings, Irvine. The Respondent did not appear and was not represented.
5. The Applicants' representatives stated that they understood that the Respondent may have vacated the property in September 2018. They stated that they had received notification from the local Authority, North Ayrshire Council, that the Landlord was again responsible for Council Tax, in September 2018.. They stated that the Landlord did not consider that there was any merit in seeking a Civil Proceedings Order for payment of rent arrears. They invited the Tribunal to grant the Possession order sought in the Application.

Statement of Reasons

6. In terms of Section 33 of the Housing (Scotland) Act 1988, the Tribunal shall make an order for possession of the house let on the tenancy if:
 - (a) the short assured tenancy has reached its ish;
 - (b) tacit relocation is not operating;
 - (c) no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
 - (d) the landlord has given to the tenant notice stating that he requires possession of the house.
7. All of the above criteria have been satisfied in this Application, and accordingly the Tribunal shall make an order for Possession.

Decision

8. In the circumstances, the Tribunal make an order for Possession in respect of the Property, as sought in this Application.

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.⁶

G McWilliams

15th November 2018

Legal Member

Date