



**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**

Reference number: FTS/HPC/EV/20/0917

Order granted on 12 August 2020 in absence of the Respondent

Property: 23 Derby Gate, Bellshill, ML4 1FG

Parties:

Kelleigh McRae, 18 Swift Crescent, Glasgow, G13 4QL (“the Applicant”)

Gary Straub, 23 Derby Gate, Bellshill, ML4 1FG (“the Respondent”)

**Tribunal Members:**

**Paul Doyle (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 33 of the Housing (Scotland) Act 1988.**

**Background**

The Applicant sought recovery of possession of the Property in terms of Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to Quit and s.33 notice, both served on 15 August 2019, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is joint heritable proprietor of the Property.

**Case Management Discussion**

A case management discussion took place by telephone conference at 10am on 12 August 2020. The Applicant was represented by Ms V McGuire of Jewel Homes.

The hearing was delayed until 10.12am to allow sufficient time for the respondent to participate, but there was no appearance by or on behalf of the Respondent.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a short-assured tenancy Agreement for the Property dated 2 November 2015. The lease initially ran from 6 November 2015 to 7 May 2016.
2. The rent in terms of the Tenancy Agreement was £550 per month.
3. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
4. A notice to quit and a s.33 notice were served on the Respondent on 15 August 2019. The tenancy is a short-assured tenancy and the respondent received the notice to quit and the s.33 notice timeously. The s.33 notice brought the tenancy to an end on 7 November 2019.
5. The Applicant sought recovery of possession of the Property in terms of s.33 of the Housing (Scotland) Act 1988 because the short-assured tenancy had been brought to an end on 7 November 2019 by the service of the s.33 notice.
6. Sheriff Officers served notice of today's hearing on the respondent on 9<sup>th</sup> July 2020. The respondent offers no resistance to this application.
7. The respondent has no competent answer to the application for repossession.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The tenancy was a short-assured tenancy. Correct notice was given which brought the short-assured tenancy to an end on 7 November 2019. The basis for possession set out in s.33 of the 1988 Act is established. The respondent offers no defence to the application. The finite time for occupancy of the property as a short-assured tenancy has come to an end. For these reasons, the Tribunal determined to grant an Order for possession.

### **Decision**

For the foregoing reasons, the Tribunal determined to make 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.**

# **P Doyle**

**12 August 2020**

**Legal Member**