

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 (Act)

Chamber Ref: FTS/HPC/EV/19/1623

Re: Property at 31 Balcastle Crescent, Carluke, ML84LG (“the Property”)

Parties:

Mr Tim Davies, Mrs Bernadette Davies, EHL Holdings Ltd, Unit 4 7 Hagmill Rd, Shawhead Industrial Estate, Coatbridge, ML5 4XD (“the Applicant”)

Mrs Leona Hamilton, Ms Niamh Hamilton, 31 Balcastle Crescent, Carluke, ML84LG; 31 Balcastle Crescent, Carluke, ML84LG (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction/recovery of possession be granted.

Background

This is an application for eviction/recovery of possession under Rule 66 and section 33 of the Act.

The Tribunal had regard to the following documents:

1. Application received 29 May 2019;
2. Short Assured Tenancy (**SAT**);
3. AT5s;
4. Section 33 Notice;
5. Notice to Quit;
6. Section 11 Notice; and
7. Proof of service of Notices

Mr Alan Strain

Case Management Discussion (CMD)

The case called for a CMD on 19 July 2019. The Applicant was not present but was represented by Ms MacIntyre. The Respondents were not present or represented.

The Tribunal noted that the notification of the CMD had been served on the Respondents by Sheriff Officers on 19 June 2019. The tribunal was satisfied that the Respondents were aware of the CMD, that the Tribunal could determine the matter in their absence if satisfied that it had sufficient information and it was fair to do so.

The Tribunal then proceeded to consider the documentation before it and made the following findings in fact:

1. The Parties entered in to the SAT commencing 7 April 2017;
2. A valid SAT had been created;
3. The section 33 Notice and Notice to Quit had been validly served on the Respondents giving the appropriate notice to quit by 7 May 2019;
4. The SAT had been terminated at its "ish" ;
5. Tacit Relocation was not operating; and
6. The Respondents remained in the Property

The Tribunal was satisfied that it had sufficient information upon which to make a decision and that it was fair to do so at the CMD. The Tribunal considered that the requirements of Section 33 were met and accordingly granted the eviction/recovery of 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.

Mr Alan Strain

Legal Member/Chair

19 July 2019.

Date