



**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/19/3691

Date Order was granted 29 January 2020 in absence of the Respondent

Property: 6 Ardmish Place, Dundee, DD4 0SJ

Parties:

Adam Rutter, residing at Kincarse, Kinnaird, Perthshire ("the Applicant")

Margaret Low residing at 6 Ardmish Place, Dundee, DD4 0SJ ("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 and form AT5 both dated 11 March 2010, a s.33 notice and a Notice to quit served on 21 August 2019. A copy title sheet was lodged with the Tribunal which demonstrates that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place before the Tribunal at 10.00am on 29 January 2020 at Caledonia House, Greenmarket, Dundee. The Applicant was represented by A Campbell, of Campbell Boath, solicitors. The respondent did not appear and was not represented. Intimation of the time date and place of this Case Management Discussion was served on the respondent by sheriff officers on 30 December 2019.

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 11 March 2010.
2. The period of the Lease was from 13 March 2020 to 12 September 2010 and thereafter on a month to month basis.
3. The initial rent in terms of the Tenancy Agreement was £650 per month.
4. 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.
5. A Form AT6, a notice to quit and a s.33 notice (all dated 19 August 2019) were served on the Respondent on 21 August 2019. The respondents accept that the tenancy is a short-assured tenancy and that they received the notice to quit, the s.33 notice and the form AT6 timeously.
6. An Application was made to the Tribunal on 14 November 2019 which was more than two months after the date of service of the AT6.
7. 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 19 August 2019 by the service of the s.33 notice.
8. The respondent has not taken any steps to resist this application. The respondent has not paid rental for months and an separate application for payment is anticipated.

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 19 August 2019. The basis for possession set out in s.33 of the 1988 Act is established. The respondent offers no stateable 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. The AT6 has been served on the Respondent and has provided the requisite period of notice. This Application has been made within a period of 6 months after the service of the AT6.

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

29 January 2019

Legal Member