



**Decision with statement of reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 33 of the Housing (Scotland)
1988**

Chamber Ref: FTS/HPC/EV/18/1443

**Re: Property at 19C Forrester Park Drive, Edinburgh, EH12 9AS (“the
Property”)**

Parties:

**Ms Stacey Booth, 25 Saughton Mains Place, Edinburgh, EH11 3PX (“the
Applicant”)**

**Ms Lynsey Kerr, 19C Forrester Park Drive, Edinburgh, EH12 9AS (“the
Respondent”)**

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be decided without a hearing
and that the application for recovery of possession should be granted.**

Background

By application, received by the Tribunal on 11 June 2018, the Applicant sought an Order for possession of the Property.

The application was accompanied by a copy of a Short Assured Tenancy Agreement in respect of the Property, the tenancy commencing on 2 January 2017 and ending on 2 July 2017 and, if not brought to an end on that date by either party, continuing on a monthly basis until ended by either party.

The application was also accompanied by a copy of an AT5 Notice, dated 2 January 2017, given to the Respondent prior to the creation of the tenancy, and by copies of a Notice to Quit and of a Notice given under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), both Notices being dated 28 March 2018, requiring the Respondent to remove from the Property on or before 2 June 2018.

By letter dated 23 July 2018, the parties were advised that the Tribunal would hold a Case Management Discussion on 23 August 2018 and that any written representations must be returned to the Tribunal by 13 August 2018. Neither party made any further written representations to the Tribunal. The letter of 23 July 2018 also advised the parties that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision on the application, which might involve making or refusing an eviction order.

The Case Management Discussion

The Case Management Discussion was held at George House, 126 George Street, Edinburgh EH2 4HH on the afternoon of 23 August 2018. The Applicant was represented by Mr Neil Matheson of T C Young, solicitors, 7 West George Street, Glasgow. The Respondent was neither present nor represented at the Case Management Discussion.

The Applicant's representative asked the Tribunal to exercise its right to make a decision on the application without a hearing and to make the Order for possession sought in the application.

Rule 17(4) of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 states that "The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision".

The Tribunal was satisfied that it had before it all the information it required in order to make a decision and that, as the Respondent had not made any written representations and was not present or represented, it was able to decide the application without a hearing.

Reasons for the Decision

Having seen copies of the Form AT5, the Notice to Quit and the Notice given under Section 33 of the 1988 Act, the Tribunal was satisfied that the tenancy was a Short Assured Tenancy, that it had reached its end, that tacit relocation was not operating, that no further contractual tenancy was operating and that the Applicant had given the Respondent notice stating that the Applicant required possession of the Property. Accordingly, the Tribunal held that the requirements of Section 33 of the 1988 Act had been met and that the Tribunal was required to grant the application and to make an Order for possession of the Property.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

George Clark

Legal Member/Chair

23 August 2018

Date