



**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/20/1648**

**Re: Property at 6/1 West Pilton Green, Edinburgh, EH4 4HT (“the Property”)**

**Parties:**

**Mr Graham Morris, 24 Stewartfield, Edinburgh, EH6 5RQ (“the Applicant”)**

**Ms Kirsty Michelle Robins, 6/1 West Pilton Green, Edinburgh, EH4 4HT (“the Respondent”)**

**Tribunal Members:**

**Helen Forbes (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the Property should be granted against the Respondent under section 33 of the Housing (Scotland) Act 1988.**

**Background**

1. This is an application dated 4<sup>th</sup> August 2020, made in terms of Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) and section 33 of the Housing (Scotland) Act 1988 (“the Act”). The Applicant is seeking an order for possession of the Property.
2. The Applicant lodged a copy short-assured tenancy agreement which commenced on 23<sup>rd</sup> August 2015 for a period of six months and monthly thereafter, copy Form AT5 dated 23<sup>rd</sup> August 2015, copy Notice to Quit and Section 33 notice dated 17<sup>th</sup> and served 20<sup>th</sup> January 2020 requiring the Respondent to remove from the Property by 24<sup>th</sup> April 2020 and copy section 11 notice.
3. Notification of the CMD and application was made upon the Respondent by Sheriff Officers on 10<sup>th</sup> September 2020.

## **Case Management Discussion**

4. A Case Management Discussion (“CMD”) took place by telephone conference on 6<sup>th</sup> October 2020. Both parties were in attendance.
5. The Applicant confirmed that he was seeking an order for possession of the Property.
6. The Respondent said that she was being assisted by the local authority to find temporary accommodation and this would have happened in March 2020 had it not been for the Covid-19 outbreak, which prevented her from moving into new accommodation. She was not defending the application.
7. The Tribunal indicated that it had no discretion but to grant the order sought, but that any order granted could not be enforced during the period of 30 days from receipt of the decision.

## **Findings in Fact**

8.
  - (i) The parties entered into a short assured tenancy in respect of the Property on 23<sup>rd</sup> August 2015 for a period of six months and monthly thereafter.
  - (ii) Notice to Quit and Section 33 Notice dated 17<sup>th</sup> January 2020 were served on the Respondent on 20<sup>th</sup> January 2020
  - (iii) The short assured tenancy has reached its ish date.
  - (iv) The contractual tenancy terminated on 24<sup>th</sup> April 2020.
  - (v) Tacit relocation is not in operation.
  - (vi) The Applicant has given the Respondent notice that he requires possession of the Property.

## **Reasons for Decision**

9. Section 33 of the Act provides that the Tribunal shall make an order for possession if satisfied that the short assured tenancy has reached its finish and that tacit relocation is not operating. The contractual tenancy has been terminated and tacit relocation is not in operation. The Applicant has given the Respondent notice that he requires possession of the Property. In the circumstances, the Tribunal must grant the order sought.

## **Decision**

10. An order for possession of the Property is granted against the Respondent under section 33 of the Housing (Scotland) Act 1988. The order cannot be executed prior to 12 noon on 10<sup>th</sup> November 2020

## **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.**

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**Legal Member/Chair**

6<sup>th</sup> October 2020  
**Date**