



**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/20/0939

**Re: Property at 58 Maukinfauld Road, Flat 3/1, Glasgow, G32 8TH (“the
Property”)**

Parties:

**Mrs Sharon McNally, 29 Lynden Court, Portadown, County Armagh, BT63 5YH
 (“the Applicant”)**

**Mr Mohammed Elhammounihajjam, 58 Maukinfauld Road, Flat 3/1, Glasgow,
G32 8TH (“the Respondent”)**

Tribunal Members:

Susan Christie (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an Order is granted for recovery of possession of the
Property.**

Background

- 1 The Application under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) was made by the Applicant’s Representative on 16 March 2020.
- 2 A Notice of Acceptance of Application is dated 4 June 2020.
- 3 The Applicant seeks recovery of possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (the 1988 Act).
- 4 A conference call Case Management Discussion (CMD) was scheduled for 12 August 2020 at 11.30am.
- 5 The Parties were written to by letter dated 13 July 2020.
- 6 Intimation on the Respondent was made by Sheriff Officer, mode of service by letterbox, on 15 July 2020.
- 7 Written responses were due to be submitted by the Respondent by 3 August 2020. None were lodged.

Case Management Discussion

- 8 A Case Management Discussion (CMD) took place on 12 August 2020 at 11.30am by conference call. The Applicant's Representative, Mr Stuart Girdwood participated and there was an observer present with him, Mr Reid, a work colleague.
- 9 The Respondent did not participate. The CMD started slightly later than 11.30am. I was satisfied that proper intimation had been made on the Respondent and that he was told that he should participate in the CMD. I proceeded with the CMD in his absence, the procedure having been fair.
- 10 The paperwork submitted along with the Application was examined and discussed.
- 11 The Short Assured Tenancy (SAT) between the Applicant/Landlord's Agent and the Respondent was signed on 14 November 2017. It was for an initial term of 14 November 2017 to 15 May 2018, then recurred monthly thereafter by agreement. An AT5 had been produced along with an acknowledgement showing that it had been served prior to the SAT being signed.
- 12 The Respondent had been served with a Notice to Quit and Section 33 Notice under the 1988 Act by Sheriff Officer, mode of service by letterbox and post 1st class recorded delivery, on 6 January 2020.
- 13 A copy Section 11 Notice was with the paperwork along with evidence of service on the local authority of it.
- 14 The Sheriff Officers Reports both indicated that the Respondent was still in occupation at their respective dates. Accordingly, an Order was sought.
- 15 The rent was around £5,000 in arrears.

Findings in Fact

- I. The Applicant/Applicants agent entered into a Short Assured Tenancy (SAT) with the Respondent over the Property on 14 November 2017 for an initial term 14 November 2017 to 15 May 2018 and monthly thereafter, recurring on 15th of every month.
- II. The Applicant is the owner of and Landlord over the Property and is registered as such.
- III. The Applicant's agent and Representative is Guardian Letting & Sales Limited.
- IV. The Short Assured Tenancy continued monthly by agreement after the initial term.
- V. A Notice to Quit dated 6 January 2020 was served on the Respondent on 6 January 2020 by Sheriff Officer letterbox service and by 1st class Recorded Delivery post.
- VI. The contractual Short Assured Tenancy ended by reason of the Notice to Quit on 15 March 2020.
- VII. A Section 33 Notice in terms of the 1988 Act was served on the Respondent, at the same time on 6 January 2020 by said Sheriff officers, in writing and complied with the requirements under Section 33 (1) (d). It was given with 2 months' notice.

- VIII. The Applicant is entitled to recovery of possession of the Property from the Respondent, the requirements set out in Section 33 of the 1988 Act having been satisfied.
- IX. The Application dated 16 March 2020 for recovery of possession of the property is accordingly granted.

Reasons for Decision & Decision

I was satisfied that a decision could be made today on the undisputed facts and as there was enough material before me to do so. I was satisfied that the procedure was fair.

I was satisfied that the tenancy between the Parties was a SAT under Section 32 of the Act.

I require to grant recovery of the Property in terms of Section 33 of the Act if I am satisfied

- The SAT has reached its finish
- That tacit relocation is not operating
- That no further contractual tenancy is in existence and
- The landlord has given to the tenant notice stating that it requires possession of the house, on a period of notice of 2 months.

I was so satisfied and made an Order for recovery of 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.

Susan Christie

Legal Member/Chair

12 August 2020
Date