



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/19/1260

Re: Property at 17 Craigend Crescent, Milngavie, G62 7DU (“the Property”)

Parties:

Mrs Fiona Carrick, 44 Drumlin Drive, Milngavie, G62 6NH (“the Applicant”)

Miss Seonaid Campbell, 17 Craigend Crescent, Milngavie, G62 7DU (“the Respondent”)

Tribunal Members:

Fiona Watson (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 against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

- **Background**

An application dated 16 April 2019 was submitted to the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a repossession order against the Respondent upon termination of a short assured tenancy agreement.

- **The Case Management Discussion**

A Case Management Discussion took place on 2 July 2019. The Applicant was personally present. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent by Sheriff Officer on 30 May 2019. The Tribunal was accordingly satisfied that the Respondent had been duly notified of the date and time of the CMD and that the CMD could proceed in the Respondent’s absence.

A separate application by the Applicant seeking a payment order against the Respondent under Rule 70 of the Rules in respect of rent arrears and under case reference FTS/HPC/CV/19/1261 was heard at the same time.

The Applicant moved for the order for repossession to be granted as sought. The parties had entered into a Short Assured Tenancy Agreement. The Applicant had served a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") on the Respondent. The Respondent had failed to remove from the Property and continued to reside therein. The Applicant required repossession of the Property.

- Findings in Fact

The Tribunal made the following findings in fact:

1. The parties entered into a Short Assured Tenancy Agreement ("the Agreement") which commenced 10 April 2015. The Agreement stated that the start date was 10 April 2015 and the end date was 9 April 2016. Thereafter, if the Agreement is not brought to an end by either party it will run on a monthly basis until ended by either party;
2. A Notice to Quit and notice under section 33 of the 1988 Act were served on the Respondent on 7 February 2019 by recorded delivery post;
3. The Notice to Quit and notice under section 33 of the 1988 Act required the Respondent to remove from the Property by 9 April 2019;
4. The Respondent had failed to remove from the Property and continued to reside therein.

- Reasons for Decision

The Tribunal was satisfied that the terms of section 33 of the 1988 Act had been met: namely that the tenancy had reached its term; tacit relocation was not operating; a notice had been served in terms of that section giving at least 2 months' notice; and no further contractual tenancy was in existence. Accordingly, the Applicant was entitled to the Order for Repossession as sought.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

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.

Ms Fiona Watson

Legal Member/Chair

Date

2/7/19