



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/19/2392

Re: Property at 9E Mar Grove, Musselburgh, EH21 7BW (“the Property”)

Parties:

LAR Housing Trust, F3 Buchan House, Carnegie Campus, Enterprise Way, Dunfermline, Fife, KY11 8PL (“the Applicant”)

Ms Joanne McDonald, 9E Mar Grove, Musselburgh, EH21 7BW (“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
 1. An application dated 29 July 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
 2. A Case Management Discussion took place on 3 October 2019. The Applicant was represented by Miss Caldwell of TC Young Solicitors. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent at the Property by Sheriff Officer on 23

August 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.

3. 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/19/2393 was heard at the same time.
4. 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

5. The Tribunal made the following findings in fact:

- (i) The parties entered into a Short Assured Tenancy Agreement ("the Agreement") which commenced 15 January 2016. The Agreement states that the *"tenancy will commence on 15/01/2016 (the start date) and will end on 15/07/2016 (the end date). If the Agreement is not brought to an end by either party on the end date, it will continue on a monthly basis until ended by either party"*;
- (ii) A Notice to Quit and notice under section 33 of the 1988 Act were served on the Respondent on 31 October 2018 by sheriff officer;
- (iii) The Notice to Quit and notice under section 33 of the 1988 Act required the Respondent to remove from the Property by 15 February 2019;
- (iv) The Respondent has failed to remove from the Property.

- Reasons for Decision

6. The Tribunal was satisfied that the terms of section 33 of the 1988 Act had been met: namely that the tenancy had reached its end; 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

7. 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.

F.Watson

Legal Member/Chair

3/10/19

Date