



**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/22/3269

**Re: Property at 10 North Bridge Street Lane, Bathgate, EH48 4PR (“the
Property”)**

Parties:

Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)

**Mrs Karen Aitken, 10 North Bridge Street Lane, Bathgate, EH48 4PR (“the
Respondent”)**

Tribunal Members:

George Clark (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision (in absence of the Parties)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be determined without a
Hearing and decided that the application for an Order for Possession should be
refused.**

Background

By application, received by the Tribunal on 7 September 2022, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy.

The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 16 July 2014 and, if not terminated on 23 January 2015, continuing on a monthly basis until ended by either Party. The Applicant also provided a copy of a Form AT5 Notice dated 14 July 2014, a Notice given under Section 33 of the 1988 Act and a Notice to Quit, both dated 31 January 2022. The Notice to Quit required the Respondent to vacate the Property by 23 July 2022 and the Section 33 Notice required her to remove by 4 August 2022. The Applicant also provided copies of letters to the Respondent dated 19 November 2020 and 4 November 2011, signposting the Respondent to sources of possible advice and assistance, including Shelter Scotland and Citizens Advice.

On 22 November 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 13 December 2022. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 9 January 2023. Neither Party was present or represented. The Tribunal Clerk attempted to telephone the Applicant's representative and left a voicemail message for him, but he had not responded 30 minutes after the scheduled start time for the Case Management Discussion, which was then held in the absence of the Parties.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the 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 and documentation it required to enable it to decide the application without a Hearing.

Section 33 of the 1988 Act states that the Tribunal may make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence, that the landlord has given to the tenant notice stating that he requires possession of the house, and that it is reasonable to make the Order for Possession.

The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been properly given.

The Tribunal noted, however, that the Applicant was not present or represented and had provided no evidence as to why it would be reasonable for the Tribunal to make an Order for Possession. The Tribunal decided that it, in the absence of any representations on the matter, it would not be reasonable to make an Order for Possession. The Tribunal, therefore, refused the application.

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.

George Clark

Legal Member/Chair

9 January 2023
Date