



**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 (hereinafter referred to as “the 1988 Act”) for Recovery of Possession
of a Short Assured Tenancy**

Chamber Ref: FTS/HPC/EV/20/1432

Re: Property at Flat 2, 7 McCormack Place, Larbert, FK5 4TU (“the Property”)

Parties:

Mrs Lorraine Oteniya, 30 Young Crescent, Larbert, FK5 4XS (“the Applicant”)

Nico Serapiglia, Flat 2, 7 McCormack Place, Larbert, FK5 4TU (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application for Recovery of Possession on termination of a Short Assured Tenancy under Section 33 of the Housing (Scotland) Act 1988. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained to parties. Parties understood a final decision on the Application could also be made. The Hearing took place by teleconference due to the Covid-19 pandemic.

Attendance and Representation

The Applicant was represented by Dr Lloyd Oteniya, 30 Young Crescent, Larbert FK5 4XS.

The Respondent did not attend the Tribunal. Sheriff Officer service of the Application and notice of the hearing took place on 11th September 2020.

Preliminary Matters

The Applicant's representative had provided the Tribunal with an AT5 but the Legal member had page one only. The Applicant was able to provide the full document by email to the Legal Member via the Clerk and it was clear the AT5 was signed by the Respondent prior to commencement of the Tenancy.

Decision (in absence)

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

Case Management Discussion

Dr Oteniya for the Applicant in his submission confirmed the Applicant sought an Order for recovery of possession. The parties had entered into a Short Assured tenancy on 11th November 2016. The Respondent had received a Notice to Quit by recorded delivery post bringing the said tenancy to an end on the ish date, namely the 12th June 2020. The Applicant's representative said that it may be the Respondent had left the property but he could not be sure. He said further that the Respondent had rent arrears of £3570 and the Applicant sought an Order for Eviction.

Reasons for Decision

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent was not present at the hearing but had received Sheriff Officer service and all material issues were established.**
- 2. The Tribunal was satisfied that the tenancy was in terms of Section 32(1) of the 1988 Act, a Short Assured Tenancy for not less than 6 months and in relation to which a prescribed notice namely a valid AT5 had been served before creation of the short assured tenancy.**
- 3. In terms of Section 33 of the 1988 Act the Tribunal considered that the Short Assured Tenancy had reached its ish and the Notice to Quit contained the correct ish date.**
- 4. Further the Tribunal was satisfied that no tacit relocation was operating, no further contractual tenancy was in existence and a valid Notice to Quit had been served on the Respondent terminating the tenancy with the necessary notice given to the Respondent.**
- 5. Proof of a correct method of service of the Notice to Quit had been lodged and the necessary Section 11 notice sent to the relevant local authority.**

6. Accordingly in terms of Section 33 of the 1988 Act the Tribunal granted an order against the Respondent for 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.

K Kirk

12th October 2020

Legal Member/Chair

Date