



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 (Act)

Chamber Ref: FTS/HPC/EV/19/1481

Re: Property at 68 Taylor Green, Livingston, EH54 8SX (“the Property”)

Parties:

Mr James Lindsay Herbert, 65 Beaconsfield Place, Aberdeen, AB15 4AD (“the Applicant”)

Ms Lisa McCulloch, 68 Taylor Green, Livingston, EH54 8SX (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction/recovery of possession be granted.

Background

This is an application for eviction/recovery of possession under Rule 66 and Section 33 of the Act.

The Tribunal had regard to the following documents:

1. Application received 15 May 2019;
2. Short Assured Tenancy (**SAT**);
3. AT5;
4. Notice to Quit dated 22 January 2019;
5. Section 33 Notice dated 22 January 2019;
6. Royal Mail Proof of Posting;
7. Section 11 Notice.

Case Management Discussion (CMD)

A. Strain

The case called for a CMD on 11 July 2019. The Applicant was not present but was represented by his solicitor. The Respondent was not present or represented.

The Tribunal was satisfied that the Respondent had notification of the CMD as it had been served by Sheriff Officers on 6 June 2019. The Respondent was aware that the Tribunal could proceed in her absence and make a Decision if satisfied that it had all the information and it was fair to do so.

The Tribunal considered the evidence before it and made the following findings in fact:

1. The Parties entered in to a SAT dated 30 September 2008;
2. Section 33 Notice and Notice to Quit had both been served on 22 January 2019;
3. The SAT had been terminated on 10 April 2019;
4. Tacit relocation was not operating;
5. Section 11 Notice had been served on the local authority.

The Tribunal then considered the terms of section 33. The SAT had been validly terminated and tacit relocation was not operating. The terms of section 33 were established and the Tribunal had no discretion other than to grant the order.

The Tribunal accordingly granted the order for eviction/recovery of possession.

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.

Alan Strain

Legal Member/Chair

11 July 2019

Date