

Housing and Property Chamber
First-tier Tribunal for Scotland



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/19/0781

Re: Property at Northbank Cottage, High Street, Errol, PH2 7QP ("the Property")

Parties:

Mr Graeme Carling, Business Centre, 52A Church Street, Broughty Ferry, Dundee, DD5 1HB ("the Applicant")

Miss Bridget McPhee, Northbank Cottage, High Street, Errol, PH2 7QP ("the Respondent")

Tribunal Members:

Ewan Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an Order for Possession should be granted to the Applicant to require the Respondent to remove from the Property.

Background

The Applicant was the owner of the Property and had let it to the Respondent. The Applicant alleged they had served notice to terminate the tenancy under s33 of the Housing (Scotland) Act 1988 but on expiry of the relevant notices the Respondent had failed to remove from the Property

The Tribunal had before it:-

- the lease of the Property from the Applicant to the Respondent and the associated AT5;
- S11 Homelessness notice;
- the Applicant's title to the Property;

- Section 33 Notice and Notice to Quit dated 22/3/18 and recorded delivery signed for acknowledgement;
- Certificate of Service of the Tribunal Papers by Sheriff Officers dated 16 April 2019.

CMD

The Tribunal held a Case Management Discussion (CMD) at Inveralmond Business Centre, Auld Bond Road, Perth on 3 May 2019. Ms Glen of Messrs Miller Hendry appeared as agent for the Applicant. The Respondent was neither present nor represented.

The Tribunal noted that the papers sent by the Tribunal had been served timeously by Sheriff Officers. The Tribunal papers made it very clear to the Respondent that a decision could be taken in her absence. The Tribunal could see no reason not to make a decision on the day.

Findings in Fact

The Tribunal found the following facts to be established:-

- The Applicant was the owner of the Property;
- The Applicant had let the Property to the Respondent;
- A valid ss33 Notice, Notice to Quit and s11 Homelessness Notice had all been served;
- The Respondent had failed to remove from the Property on the appropriate date.

Reasons for Decision

The Tribunal had no reason to question the paperwork before it from the Applicant. There was clearly a lease between the parties. The original period of the lease had expired and it was continuing on tacit relocation. The Applicant was entitled to serve notice on the Respondent to remove on two months' notice. A valid Notice to Quit and s33 Notice had been properly served but the Respondent had failed to remove on the required date. In the circumstances the Tribunal was obliged to grant the order for 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.

Mr E Miller

Legal Member/Chair

3/5/19

Date