

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 of the Housing (Scotland) Act 1988 ('the 1988 Act')

Chamber Ref: FTS/HPC/EV/19/0872

Re: Property at Flat 2/3, 202 Westmuir Street, Glasgow, G31 5BS ("the Property")

Parties:

Adelphi Scott Limited, 19 Adelphi, Aberdeen, AB11 5BL ("the Applicant")

Mr Simon Morris, Flat 2/3, 202 Westmuir Street, Glasgow, G31 5BS ("the Respondent")

Tribunal Members:

Susan Christie (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 for recovery of possession of the Property.

Background

- 1 The Application under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") was made by the Applicants Representative on 15 March 2019.
- 2 A Notice of Acceptance of Application made under Rule 9 of the Rules is dated 22 March 2019.
- 3 The Application seeks recovery of possession of the Property under Section 33 of the Housing (Scotland) Act 1988.
- 4 A Case Management Discussion (CMD) was scheduled for 8 May 2019 at 11.30am within Glasgow Tribunals Centre, Room 109, 20 York Street, Glasgow, G2 8GT. The Parties were written to by letter dated 13 April 2019.
- 5 Intimation on the Respondent was made by Sheriff Officer, mode of service by letterbox, on 16 April 2019.
- 6 Written responses were due to be submitted by the Respondent by 1 May 2019. None were lodged.

Case Management Discussion

- 7 A Case Management Discussion (CMD) took place on 8 May 2019 at 11.30am within Glasgow Tribunals Centre, Room 109, 20 York Street, Glasgow, G2 8GT when the Applicants Representative, Ms Elle Piaget, was in attendance.
- 8 The Respondent was not in attendance. I was satisfied that proper intimation had been made on the Respondent of all relevant documentation and that he was told that he should attend the CMD. I proceeded with the CMD in his absence, the procedure having been fair.
- 9 The paperwork submitted along with the Application was examined and discussed.
- 10 The Short Assured Tenancy (SAT) between the previous owner Caversham Management Ltd and the Respondent was signed on 15 January 2015. It was for an initial term of 6 Months then recurred monthly thereafter by agreement. An AT5 had been produced along with an acknowledgement showing that it had been served prior to the SAT being signed.
- 11 The Applicant became the new owner for the Property from 9 November 2017 and this aligned with the extract from the Land Register. The Respondent was written to on 22 November 2017 intimating that the ownership had changed.
- 12 The Respondent had been served with a Notice to Quit and Section 33 Notice under the 1988 Act by Sheriff Officer, mode of service by letterbox, on 24 December 2018.
- 13 A copy Section 11 Notice was with the paperwork along with the evidence of service on the local authority of it by e mail.
- 14 Ms Piaget indicated that the Respondent was still in occupation. Accordingly, she was seeking an Order. The rent was several months' in arrears. She relied on the agreement between the Parties and the Applicant as successor to the SAT continuing on the same terms and conditions, with a recurring monthly term which expired on 14th of every month.

Findings in Fact

- I. The Respondent and the Applicant's predecessor entered into a Short Assured Tenancy SAT on 15 January 2015 for an initial term of 6 months.
- II. The Applicant is the owner of and Landlord over the Property and is registered as such. It acquired the status of landlord over the Property.
- III. The Short Assured Tenancy continued on a monthly basis by agreement after the initial term.
- IV. The contractual Short Assured Tenancy ended on 14 March 2019.
- V. The Short Assured Tenancy became a statutory tenancy thereafter.
- VI. A Section 33 Notice in terms of the 1988 Act was served on the Respondent, on 24 December 2018, in writing and complied with the requirements under Section 33 (1) (d). It was given with 2 months' notice.
- VII. The Applicant is entitled to recovery of possession of the Property from the Respondent, the requirements set out in Section 33 of the 1988 Act having been satisfied.
- VIII. The Application dated 15 March 2019 for recovery of possession of the property is accordingly granted.

Reasons for Decision & Decision

I was satisfied that a decision could be made today on the undisputed facts and as there was enough material before me to do so. I was satisfied that the procedure was fair.

I was satisfied that the tenancy between the Parties was a SAT under Section 32 of the Act and that the Applicant had acquired the rights and obligations as landlord from the previous owner/ landlord.

I require to grant recovery of the Property in terms of Section 33 of the Act if I am satisfied

- The SAT has reached its finish
- That tacit relocation is not operating
- That no further contractual tenancy is in existence and
- The landlord has given to the tenant notice stating that it requires possession of the house, on a period of notice of 2 months.

I was so satisfied and made an Order for recovery of 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Susan Christie
Legal Member

8 May 2019
Date