

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/19/1095

Re: Property at 2 Mennock Street, Motherwell, ML1 5PQ (“the Property”)

Parties:

**Miss Zelena Bacchus, 16 Burnham Close, Millhill, London, NW7 2SE
 (“the Applicant”)**

(Represented by Mr Robert Nixon, Ritehome Limited, 350 Glasgow Harbour Terraces, Glasgow, G11 6EG)

**Miss Linda Wilson, 2 Mennock Street, Motherwell, ML1 5PQ
 (“the Respondent”)**

Tribunal Member:

Gillian Buchanan (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:-

Background

- The parties entered into a Short Assured Tenancy Agreement on 11 November 2013 (“the First Tenancy”);
- The term of the First Tenancy was from 11 November 2013 to 11 May 2014 and monthly thereafter until terminated by either party giving notice;
- On expiry of the initial term the First Tenancy continued from 12 May 2014 and until 11 June 2014 and monthly thereafter until 11 November 2016;
- The parties entered into a further Tenancy Agreement on 11 November 2016 (“the Second Tenancy”). The Second Tenancy was a Short Assured Tenancy.
- The term of the Second Tenancy was from 11 November 2016 to 11 May 2017 and monthly thereafter until terminate by either party giving notice;
- On expiry of the initial term the Second Tenancy continued from 12 May 2017 until 11 June 2017 and monthly thereafter;

- On 5 November 2018 the Applicant per her agent served on the Respondent a Notice to Quit and a Notice under Section 33 of the Housing (Scotland) Act 1988 in terms of which the Respondent required to remove from the Property by 11 January 2019;
- The Notice to Quit and Section 33 Notice were served by recorded delivery post and were signed for by or on behalf of the Respondent on 6 November 2019.
- The Respondent has had due intimation of the Hearing on 27 June 2019, Sheriff Officers having served notice thereof together with the supporting papers on 28 May 2019.

The Case Management Discussion

- The Applicant's agent advised the Tribunal that the Respondent appeared to have vacated the Property, the keys thereto having been returned on Thursday 20 June 2019.
- A routine inspection of the Property was undertaken on Tuesday 25 June 2019. Many of the Respondent's effects remain in the Property and the Applicant cannot be sure that the Respondent has indeed moved out. The Property is damaged and in poor condition.
- The Applicant, in these circumstances, seeks an order for recovery of possession of the Property.

Reasons for Decision

- The Applicant entered into a Short Assured Tenancy with the Respondent;
- The tenancy has reached its ish;
- Tacit relocation is not operating;
- Notice under Section 33 of the 1988 Act has been duly given.
- The Applicant is therefore entitled to recover possession of the Property and the Tribunal therefore determined to make an order to that effect.

Decision

The Applicant is entitled to an order to recover 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.

Gillian Buchanan
Legal Member / Chair

27 June 2019

Date