

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/19/1663

Re: Property at 22 Hallhill Road, Springboig, Glasgow, G32 0HW (“the Property”)

Parties:

Mr Terence Mooney, Ms Gillian Semple, 12a Buchanan Gardens, Glasgow, G32 9QY; 12a Buchanan Gardens, Glasgow, G32 9QY (“the Applicant”)

Mr George McNicol, 22 Hallhill Road, Springboig, Glasgow, G32 0HW (“the Respondent”)

**Tribunal Member:
George Clark (Legal Member)**

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be determined without a hearing and made an Order for Possession of the Property.

Background

By application, received by the Tribunal on 30 May 2019, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”).

The application was accompanied by copies of a Short Assured Tenancy Agreement between the Parties, commencing on 4 July 2017, for an initial period of six months and thereafter on a month to month basis until terminated by two months’ written notice, a Form AT5 Notice dated 4 July 2017, a Notice to Quit and a Notice given under Section 33 of the 1988 Act (Form AT6 Notice), both dated 28 February 2019 and both requiring the Respondent to vacate the Property by 4 May 2019, with proof of service of both Notices by sheriff officer on 1 March 2019.

On 9 July 2019, the Tribunal advised the parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 29 July 2019. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow on the morning of 13 August 2019. The Applicant was represented by Lauren Dalglish of Clarity Simplicity Ltd, solicitors, Glasgow. The Respondent was not present or represented. The Respondent had contacted the Tribunal on the morning of the Case Management Discussion to say that, for work reasons, he was unable to attend and had requested a postponement, but the Tribunal decided to continue with the Case Management Discussion in his absence, as the ground for possession being relied on by the Applicant was a mandatory one, which did not require evidence of any fault on the part of the Respondent.

The Applicant's representative asked the Tribunal to make the Order for Possession without a hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would determine the application without a hearing.

Section 33 of the 1988 Act states that the Tribunal shall make an Order for Possession of a house let on a Short Assured Tenancy if satisfied that the tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence and that the landlord has given to the tenant notice stating that he requires possession of the house.

The Tribunal was satisfied that the Short Assured Tenancy had reached its end and that no further contractual tenancy was for the time being in existence. By service of the Notice to Quit, tacit relocation was not operating and the Applicant had served the required Notice (Form AT6) stating that he required possession of the Property. The Tribunal held that the requirements of Section 33 of the 1988 Act had been met and that it was bound to grant an Order for Possession of the Property.

Decision

The Tribunal determined that the application should be determined without a hearing and made an Order 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.

GC

Legal Member/Chair

13 August 2019

Date