



**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/19/1754

**Re: Property at 251 Cedar Road, Cumbernauld, Glasgow, G67 3AT (“the
Property”)**

Parties:

**Mr Colin Lang, 2 Marguerite Gardens, Lenzie, Glasgow, G66 4HB (“the
Applicant”)**

**Ms Alison McWilliam, 251 Cedar Road, Cumbernauld, Glasgow, G67 3AT (“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 and recovery of possession
be granted.**

Background

This is an application for eviction and recovery of possession under section 33 of the Act and Rule 66 of the Tribunal Procedure Rules. The ground for recovery of possession and eviction is termination of a shorty assured tenancy under section 33.

The Tribunal had regard to the following documents lodged with the application:

1. Short Assured Tenancy (**SAT**) commencing 10 February 2016;
2. AT5;
3. Notice to Quit dated 16 November 2018;
4. Section 33 Notice dated 16 November 2018;
5. Section 11 Notice;
6. Proof of service by Royal Mail of Notice to Quit and Section 33 Notice;

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7. Certificate of Service of CMD Notification by Sheriff Officers dated 1 July 2019.

Case Management Discussion (CMD)

The case called for a CMD on 31 July 2019. The Applicant was not present but was represented by Coda Estates. The Respondent did not appear and was not represented.

The Tribunal was satisfied that the Respondent had service of the notification of the CMD from Sheriff Officers due to the Certificate of Service provided to the Tribunal dated 1 July 2019. The Respondent was accordingly aware that the Tribunal could proceed in her absence and make a decision if satisfied that it had sufficient information upon which to do so and it was fair.

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

1. The Parties entered in to a valid SAT commencing 10 February 2016;
2. Notice to Quit and Section 33 Notices had been validly served by Royal Mail;
3. The SAT had been terminated as at 10 February 2019;
4. Tacit Relocation was not operating in respect of the tenancy;
5. Section 11 Notice had been served upon the local authority.

The Tribunal then considered the terms of section 33 of the Act. In order for an order for eviction and recovery of possession to be granted the tenancy must have been validly terminated, tacit relocation must not be operating and notification have been given to the Respondent of the landlord's intention to recover possession of the Property.

In this case all the requirements of section 33 have been complied with and the Tribunal has no discretion other than to grant the order sought.

The Tribunal was satisfied that it had all the information it needed to make a decision at this stage and that it was fair to do so.

The Tribunal granted the order for eviction and 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.

A.Strain

Legal Member/Chair

01 July 2019

Date