



**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/19/1824

Re: Property at 36 Buchanan Crescent, Livingston, EH54 7EE (“the Property”)

Parties:

**Mr Michael Allen, Apartment 2402, Burji Residences, Dubai, United Arab
Emirates (“the Applicant”)**

**Ms Carol Wilson, 36 Buchanan Crescent, Livingston, EH54 7EE (“the
Respondent”)**

Tribunal Members:

Graham Harding (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant was entitled to an order for
possession of the property and the ejection of the Respondent from the
property.**

Background

1. By application dated 11 June 2019 the Applicant’s representatives BG Property Services Livingston Limited applied to the Tribunal for an order for possession of the property and the ejection of the Respondent on the grounds that the Short Assured Tenancy entered into by the parties had reached its term. The Applicant’s representatives submitted copies of the tenancy agreement, Form AT5, Notice to Quit, Section 33 Notice and Section 11 Notice in support of the application.
2. By Notice of Acceptance dated 29 July 2019 a legal member of the Tribunal with delegated powers accepted the application and a case management discussion was assigned.

3. Intimation of the case management discussion was sent to the Applicant's representatives by post on 7 August 2019 and was served on the Respondent by Sheriff Officers on 9 August 2019.

The Case Management Discussion

4. The case management discussion was held at George House Edinburgh on 13 September 2019. The applicant was not present but was represented by Mr Gregory Bird of BG Property Services Livingston Limited. The Respondent appeared personally.
5. Mr Bird and the Respondent confirmed that the parties had entered into a short assured tenancy agreement that had commenced on 11 June 2019 and initially endured for a period of 6 months until 9 May 2018 and from month to month thereafter with either party being able to ruminare the tenancy on giving two months' notice.
6. The Respondent confirmed she had been given Form AT5 before the commencement of the tenancy.
7. The Respondent confirmed that she had received by email and by recorded delivery post the Notice to Quit and Section 33 Notice both dated 8 April 2019 and requiring her to vacate the property by 10 June 2019. The Respondent confirmed she had remained in the property as she had been advised by West Lothian Council that if she moved out voluntarily she would be treated as making herself voluntarily homeless. The Respondent said she had applied to the Council for housing.
8. The Applicant's representative asked the Tribunal to grant the order sought. The Respondent confirmed that there were no disputed facts and accepted that the order would be likely to be granted.

Findings in Fact

9. The parties entered into a short assured tenancy agreement that commenced on 10 November 2017.
10. The Respondent was served with a valid Notice to Quit and Section 33 Notice requiring her to vacate the property by 10 June 2019.
11. The respondent has remained in occupation of the property.
12. The Applicant's representatives intimated a Section 33 Notice to West Lothian Council by email on 11 June 2019.
13. The tenancy has reached its ish.

Reasons for Decision

14. The Tribunal was satisfied from the written submissions and the documents produced together with the information provided by the Applicant's representative and the Respondent that the parties had entered into a properly constituted short assured tenancy agreement.
15. The Tribunal was also satisfied that the Notice to Quit and Section 33 Notice had been properly served on the Respondent who had continued to reside in the property.
16. The Tribunal was also satisfied that the local authority West Lothian Council had been given proper notice of the Applicant's intention to raise proceedings for recovery of possession of the property by intimation by the Applicant's representative of a Section 11 Notice.
17. The Tribunal was therefore satisfied that the criteria for granting an order under section 33 of the Housing (Scotland) Act 1988 had been met and the Applicant was therefore entitled to the order sought and would come into force on 14 October 2019.

Decision

18. The Tribunal determined that the Applicant was entitled to an order for the possession of the property and the ejection of the Respondent from 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.

Graham Harding

Legal Member/Chair

13 September 2019

Date