

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

Chamber Ref: FTS/HPC/EV/19/1832

Re: Property at Flat 3F1, 344 Easter Road, Edinburgh EH6 8JR (“the Property”)

Parties:

Alasdair White, c/o Suite 39 Bonnington Bond, 2 Anderson Place, Edinburgh EH6 5NP (“the Applicant”)

represented by Gregor Fortune, Gregor Fortune Residential Property Solutions, Suite 39 Bonnington Bond, 2 Anderson Place, Edinburgh EH6 5NP

Yoshitomo Katagiri, Flat 3F1, 344 Easter Road, Edinburgh EH6 8JR (“the Respondent”)

Tribunal Member:

David Bartos (Legal Member)

Summary of Discussion

- 1. Applicant seeks an order for removal of the Respondent from the Property. A case management discussion took place at George House, 126 George Street, Edinburgh EH2 4HH on 13 August 2019 at 2.00 p.m. Applicant was represented by Gregor Fortune of Gregor Fortune Residential Property Solutions. There was no appearance by or on behalf of Respondent. The Tribunal noted that notification of the case management discussion had been given to Respondent in a letter from the Tribunal dated 9 July 2019 which had been served on him by sheriff officers on 9 July 2019. No explanation had been given by Respondent for his non-attendance at the discussion. In all the circumstances the Tribunal was satisfied that Respondent had been given a fair opportunity to participate in the case management discussion. No written representations had been received by the Tribunal from Respondent.**
- 2. The following facts were agreed or not in dispute between the parties:**
 - (a) Applicant is a co-owner of the Property under title number MID25306. Respondent entered into a short assured tenancy of the Property**

with Applicant dated 14 November 2013. Respondent had received the AT5 Form before entering into the tenancy;

(b) Following 13 May 2014 the tenancy had become a month long short assured tenancy with the ish (end date) being the 13th day of each month;

(c) On 12 March 2019 Respondent received a notice from Applicant's letting agents Gregor Fortune on behalf of Applicant given under section 33(1) of the Housing (Scotland) Act 1988. The notice was dated 9 March 2018 and complied with the requirements of section 33;

(d) On the same date Respondent received a Notice to Quit dated 8 March 2019 from Gregor Fortune addressed to him in legally compliant form. It required removal by 13 May 2019 being an ish of the lease.

3. Applicant's representative submitted that the requirements of section 33(1) of the 1988 Act had been satisfied. The notices necessary by virtue of section 33(1) had been served on the Respondents. He requested an order for possession.
4. The Tribunal considered the application form, the oral submission of Applicant's representative and the documentary evidence submitted by Applicant's representative. It found that it was able to make sufficient findings in fact and that to do so was not contrary to the interests of the parties. It was therefore able to decide the case without a hearing.
5. The Tribunal was satisfied that evidence had been produced to support the findings in fact set out above. No doubt was cast on that evidence. In those circumstances the Tribunal found that the tenancy had come to an end on 13 May 2019. It did not tacitly relocate (automatically renew) for another month. Section 33(1) of the 1988 Act had been complied with and the Tribunal had no discretion but to grant the order sought without continuation to a further hearing. It could see no benefit to be gained from a further hearing which would cause further delay.

Outcome

The First-tier Tribunal for Scotland (Housing and Property Chamber) orders Respondent to remove himself from and to give up possession of the Property in favour of Applicant.

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 this decision was sent to them.

NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.

D Bartos

Legal Member

13August2019
Date
