



**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/20/2070**

**Re: Property at 18A Brander Street, Burghead, IV30 5XD (“the Property”)**

**Parties:**

**Mr James Angus Grant, Fernie House, Wester Buthill, Roseisle, Elgin, IV30 5YQ (“the Applicant”)**

**Mr Stephen Fellows, 18A Brander Street, Burghead, IV30 5XD (“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 under section 33 of the Act and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (**Regulations**) in respect of the termination of a Short-Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 25 September 2020;
2. SAT commencing 1 February 2016;
3. Notice to Quit dated 9 March 2020;
4. Section 33 Notice dated 9 March 2020;
5. Royal Mail Track and Trace confirming delivery of Notices on 10 March 2020;
6. Section 11 Notice dated 24 September 2020;
7. Affidavit of Applicant;

8. Certificate of Service of CMD Notification by Sheriff Officers dated 24 November 2020.

### **Case Management Discussion (CMD)**

The case called for a CMD by conference call on 8 January 2021. The Applicant participated and was represented by his solicitor. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate. The Respondent did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that he should attend and the Tribunal could determine the matter in absence if he did not.

The Applicants' solicitor asked the Tribunal to deal with the matter on the basis of the documentation before it. He drew attention to the fact that there was no AT5 produced as the paperwork had gone astray. An affidavit from the Applicant had been produced confirming that an AT5 had been served.

The Tribunal then considered the documentary evidence it had received from the Applicant and in so far as material made the following findings in fact:

1. The Parties let the subjects under an SAT commencing 1 February 2016;
2. An AT5 had been served on the Respondent prior to commencement of the SAT;
3. The monthly rent was £370;
4. Notice to Quit and Section 33 Notice had been served on 10 March 2020;
5. Section 11 Notice had been served on the local authority on 10 March 2020;
6. The SAT had reached its term and had been terminated;
7. Tacit relocation was no longer operating;
8. No further contractual tenancy was in existence;
9. The Applicant had given the Respondent notice that he required possession.

The Tribunal considered and accepted the affidavit evidence of the Applicant which was, in any event, uncontested. The Tribunal considered that it had sufficient information upon which to make a Decision and that the procedure was fair. The Tribunal considered the terms of section 33 and found that the statutory requirements had been met.

The Tribunal determined that the order for eviction and recovery of possession should be granted.

### **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.**

Alan Strain

08 January 2021

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Legal Member/Chair

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Date