

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/19/3479

Re: Property at 34 Lindores Drive, Kirkcaldy, KY2 6PQ (“the Property”)

Parties:

**Mr Walter Rowan, Mrs Karen Rowan, 4 Woodlands Gait, Cluny, Fife, KY2 6NS
 (“the Applicant”)**

Ms Rose Macrae, 34 Lindores Drive, Kirkcaldy, KY2 6PQ (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. The parties entered into a Short Assured Tenancy between 1st July 2014 for a 12 month period. The rent payments of £500 per month were due on the 1st day of each month in advance.
3. The Tribunal had before it the following documents:
 - a) Application dated 29th October 2019 received by the Housing and Property Chamber on 30th October 2019;
 - b) Tenancy Agreement with the tenancy stating on 1st July 2014;
 - c) Form AT5 signed by the Applicant on 1st July 2014;

- d) Notice to Quit and Section 33 Notice combined in a letter dated 8th July 2019 requiring vacant possession as at 30th September 2019 with certificate of posting dated 8th July 2019;
 - e) Title deeds with reference REF FFE57397;
 - f) Section 11 Notice.
 - g) Sheriff Officer certificate of citation for documents pertaining to CMD on 15th January 2020 at including date and time of the CMD. The certificate is dated 12th December 2019 and issued by letterbox delivery. The Sheriff Officer being satisfied that the Respondent resided at the Property.
4. On 11th December 2019, all parties were written to with the date for the Case Management Discussion ("CMD") of 15th January 2020 at 2pm at Fife Voluntary Action, 16 East Fergus Place, Kirkcaldy. The letter also requested all written representations be submitted by 1st January 2020.

Case Management Discussion

5. The Tribunal held a Case Management Discussion ("CMD") on 15th January 2020 at Fife Voluntary Action, 16 East Fergus Place, Kirkcaldy. The Applicant was not present but was represented by Mr Robert Hunter, Smith and Grant Solicitors. The Respondent was present. The Tribunal considered the Application. The Respondent accepted that the lease in the papers was a copy of the one that she signed. She did not oppose the eviction application as she did not have grounds to do so. On this basis the Tribunal considered it appropriate to grant the order.

Findings in Fact

6. The parties entered into a tenancy on 1st July 2014 with the commencement of the tenancy for a 12 months. An AT5 was signed on the same date as the lease. The rent payments of £550 are due on the 1st day of each month.
7. The Housing and Property Chamber received an Application on 30th October 2019.

Reasons for Decision

8. The Tribunal was satisfied that there were no other issues of reasonableness before them and that the notices had been served in an appropriate manner and that a Short Assured Tenancy had been entered into by the parties. Given this the Tribunal was satisfied all appropriate paperwork had been served the Order for repossession was granted.

Decision

9. The Applicant is entitled to for an Order of for 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.

G. Miller



Legal Member/Chair

15 JAN 2020

Date