



**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/19/1229

Re: Property at 10 Edinburgh Road, Bathgate, EH48 1BA (“the Property”)

Parties:

Mrs Farhat Zaqia Choudhry, 7 Toll House Grove, Tranent, EH33 2QR (“the Applicant”)

Mr James Mason and Mrs Jeanette Mason, 10 Edinburgh Road, Bathgate, EH48 1BA (“the Respondents”)

Tribunal Members:

John McHugh (Legal Member)

Decision

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

Background

The Applicant is the landlord and the Respondents the tenants under a short assured tenancy agreement in respect of the Property dated 31 August 2010.

The Applicant seeks repossession of the Property.

The Case Management Discussion

A Case Management Discussion took place on 24 June 2019. The Applicant was represented by Jamie Miller of McEwan Fraser Legal. The Respondents were present.

The Applicant's representative confirmed that he wished to insist upon the Application. The Respondents advised that the Second Respondent no longer regarded herself as a tenant and had moved out of the Property around five years ago. Mr Miller confirmed that the Applicant had no knowledge of that.

The First Respondent indicated that he wished the Tribunal to look at photographs on his phone which would apparently show the poor condition of the Property. The Tribunal advised Mr Mason that the condition of the Property would not be relevant to the limited factors which the Tribunal required to consider under section 33.

Mr Mason became aggressive, insisted upon standing, refused to be seated when asked repeatedly and was warned that he would be excluded from the hearing unless he complied with the Tribunal's request. Mr Mason then insisted upon playing a video on his mobile phone. He was directed to stop playing the video and to sit down, which he refused to do. The Tribunal then indicated that it would hold the hearing in Mr Mason's absence. Mr Mason left with the assistance of security staff. Mrs Mason accompanied him.

The hearing continued in the Respondent's absence and Mr Miller requested that an order for possession be made.

Findings in Fact

The Applicant is the Landlord and the Respondents the tenants under a short assured tenancy agreement dated 31 August 2010.

The tenancy commenced on 1 September 2010 and had an initial term ending on 2 March 2011. The tenancy agreement provided that it would continue on a month to month basis thereafter.

On 28 January 2019 Notices to Quit and Notices in terms of section 33 of the Housing (Scotland) Act 1988 were served upon the Respondents. These required vacant possession to be given by 2 April 2019.

The Respondents remain in occupation.

Reasons for Decision

The Tribunal is satisfied that the short assured tenancy has reached its end; that tacit relocation is not operating; that no further contractual tenancy is in existence and that the Applicant has given notice that she requires possession of the Property. The Tribunal is therefore obliged to make an order for possession.

As regards events at the Case Management Discussion, the Tribunal required to exercise its power under Procedure Rule 34 on the basis that the First Respondent's continued behaviour was disrupting the proceedings. The Tribunal had regard to the

fact that the nature of this Application was one where there was very limited scope for a defence and the absence of any suggestion that there was to be any relevant defence by the Respondents and to the interests of the Applicant in having the matter dealt with without further delay.

Decision

An order for possession of the Property in favour of the Applicant should be made.

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.


John McHugh, Legal Member/Chair

24 June 2019

Date