



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 33 of the the Housing
(Scotland Act) 1988**

Chamber Ref: FTS/HPC/EV/19/2582

**Re: Property at 6 Hillfoot Crescent, Rutherglen, South Lanarkshire, G73 2LN
("the Property")**

Parties:

**Ms Louise McBrearty, 218 Mill Street, Rutherglen, Glasgow, G73 2NE ("the
Applicant")**

**Mr Joseph Blair, 6 Hillfoot Crescent, Rutherglen, South Lanarkshire, G73 2LN
("the Respondent")**

Tribunal Members:

Jan Todd (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that an order for possession be granted.**

- **Background**

1. This was a case management discussion to consider the application made by the Applicant dated 14th August 2019 for an order for repossession of the Property in terms of Rule 66 of the Tribunal Rules.
2. The Applicant is the owner of the Property and Landlord. She did not attend the hearing in person but her solicitor, Mr Kenny Finnie, who is representing her in these proceedings, did attend and moved that the application be granted.
3. The Respondent did not attend nor did the Respondent lodge any written representations.
4. The Respondent was served with a copy of the papers by letterbox service by Sheriff Officers on 27th September 2019.

5. The Applicant had lodged and the Tribunal had sight and considered the following documents:-
 - a. Copy Tenancy Agreement for the Property dated 4th July 2014
 - b. Copy AT5 Notice dated 4th July 2014
 - c. Notice to Quit dated 19th February 2019
 - d. S33 Notice dated 19th February 2109
 - e. Certificate of service of Notice to Quit and S33 notice by Sheriff Officers on Respondent on 27th February 2019
 - f. S11 notice to South Lanarkshire Council

The Hearing

6. The Legal Member explained the purpose of the hearing.
7. The Tribunal could do anything at a case management discussion which it may do at a hearing.
8. The Respondent, who is the tenant, did not attend the hearing and had made no written representations prior to the hearing despite notice of the hearing and the above documentation being served on him by Sheriff Officers on 27th September.
9. The applicant's solicitor, Mr Finnie confirmed his client still wished to pursue repossession of the Property as he advised his client understands the Respondent is still in the Property.
10. Mr Finnie confirmed she was looking for an order for possession today as she submitted all the notices had been served and an order should therefore be granted in terms of S33 of the Act.

Findings in Fact

11. The Applicant and Respondent have entered into a short assured tenancy of the Property for a period of 6 months from 8th July 2014.
12. The Applicant is the Landlord and served a Form AT5 on the Respondent who is the Tenant prior to the creation of the tenancy.
13. The Tenancy is a Short Assured Tenancy in terms of the Housing (Scotland) Act 1988.
14. The rent is £ 375 per calendar month.
15. The Applicant has served by Sheriff Officers, a Notice to quit and S33 notice on the Respondent terminating the contractual tenancy and giving notice that she required possession of the Property by 7th May 2019 being the termination date of the tenancy.
16. The Respondent who is the tenant has not vacated the property or responded to the Notice to Quit or S33 notice.
17. The Respondent has been served notice of this application and has made no representations in relation to this Application.

Reasons for Decision

18. The Applicant has entered into a Short Assured Tenancy with the Respondent.

19. S33 of the Act says "Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act the First Tier Tribunal for Scotland shall make an order for possession of the house if it is satisfied-
- a) That the short assured tenancy has reached its end
 - b) That tacit relocation is not operating
 - c) That no further contractual tenancy is for the time being in existence and
 - d) That the landlord (or where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house.

The period of notice required to be given under S33 (1) (d) above is two months, in accordance with the legislation and the terms of the tenancy.

20. The Short Assured tenancy has reached its end, tacit relocation is not operating and there is no further contractual tenancy in existence, so the Applicant having given a notice in terms of S33 above, is entitled to repossess the Property. There is no discretion to the Tribunal in these circumstances.
21. The Tribunal is able to make any order at a case management discussion as it can after a Hearing.
22. Considering the Respondent had made no representations and did not attend the hearing, the Tribunal felt it was reasonable, and balancing the interests of both parties, appropriate and just to grant a full order for repossession at this hearing.

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.

Jan Todd

Legal Member/Chair

1st November 2019
Date