

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/18/3518

Re: Property at 231 Guardwell Crescent, Edinburgh, EH17 7SL (“the Property”)

Parties:

Mrs Deirdre Armstrong, 58 Gilmore Place, Edinburgh, EH3 9NX (“the Applicant”)

Mr Paul Goodwin, Mrs Anna Goodwin, 231 Guardwell Crescent, Edinburgh, EH17 7SL; 15 Winton Drive, Edinburgh, EH10 7ES (“the Respondents”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a hearing and made an Order for Possession of the Property.

Background

By application, received by the Tribunal on 27 December 2018, the Applicant sought an Order for Possession under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”).

The application was accompanied by a copy of a Short Assured Tenancy between the Parties, commencing on 18 January 2013 and, if not ended on 19 May 2014, continuing on a monthly basis until terminated by either party giving two months’ notice in writing to the other. The application was also accompanied by copies of a Form AT5 Notice dated 5 November 2018, a Notice given under Section 33 of the 1988 Act and a Notice to Quit and evidence of service by sheriff officer on both Respondents of both the Section 33 Notice and the Notice to Quit on 5 October 2018. Both of these Notices required the Respondents to vacate the Property by 19 December 2108.

The Tribunal, by letter dated 12 February 2019, advised the Parties of the date, time and venue for a Case Management Discussion and invited the Respondents to make written representations by 3 March 2019.

The Respondents did not make any written representations to the Tribunal.

The Case Management Discussion

A Case Management Discussion took place at George House, 126 George Street, Edinburgh on the afternoon of 7 March 2019. The Applicant was present at the Case Management Discussion. Both Respondents were present at the Case Management Discussion, but, at their request, they appeared separately before the Tribunal. The Applicant asked the Tribunal to make an Order for Possession without a hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would decide the application without a hearing.

Section 33 of the 1988 Act states that the Tribunal shall make an Order for Possession of a house let under a short assured tenancy if it is satisfied that the tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence and that the landlord has given notice to the tenant stating that he requires possession of the house.

The Tribunal was satisfied from the Notice to Quit, that the tenancy had reached its end, that tacit relocation was not operating and that there was no further contractual tenancy in existence between the Parties and was also satisfied that the Notice required under Section 33 of the 1988 Act had been given. Accordingly, all the requirements of Section 33 of the 1988 Act had been met and the Tribunal was bound to grant the Order for possession of the Property.

Decision

The Tribunal determined that the application should be granted without a hearing and made an Order for Possession of the Property.

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.

George Clark

Legal Member/Chair

7 March 2019

Date