



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/18/3524

Re: Property at 153 Ellisland, Kirkintilloch, G66 2UA (“the Property”)

Parties:

Mr Matthew Barr, 22 Geelong Gardens, Lennoxton, Glasgow, G66 7HT (“the Applicant”)

Ms Eleanor Gill, 153 Ellisland, Kirkintilloch, G66 2UA (“the Respondent”)

Tribunal Members:

Patricia Pryce (Legal Member)

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it would grant the order for possession.

- **Background**

The Applicant applied to the Tribunal for an order for possession in the basis of Section 33 of the Housing (Scotland) Act 1998 (the 1988 Act). The Applicant’s position was that the short assured tenancy had reached its ish.

- **The Case Management Discussion (CMD)**

The Applicant attended the CMD. The Respondent did not attend nor was she represented. The Tribunal determined, in all the circumstances, to continue with the CMD in the absence of the Respondent. The Respondent had been written to and advised of the date, time and location of the CMD. The Applicant submitted that he wished an order for possession to be granted. He had spoken to the Respondent after serving notice on her. She had simply advised him to “do what he had to do”. The Applicant submitted that the Respondent had not paid rent. However, at this stage, he simply wished return of his property.

- Findings in Fact

1. The parties entered into a short assured tenancy agreement in respect of the property on 11 August 2017.
2. Monthly rent in terms of the agreement was £575 per calendar month.
3. The tenancy continued month to month from 11 August 2018 on the expiry of the initial period in terms of the tenancy agreement.
4. The Applicant served on the Respondent a Notice to Quit and a Notice in terms of Section 33 of the 1988 Act, both notices dated 1 October 2018, requiring possession of the property on 11 December 2018.
5. The Applicant served the appropriate notice on the local authority.
6. The Respondent remained in occupation of the property as at the CMD date.

- Reasons for Decision

The Applicant had served notices on the Respondent giving the Respondent ample notice of his wish to bring the tenancy to an end and to recover possession of the property. The Respondent was aware of this and remained in occupation of the property. Section 33 of the 1988 Act was referred to within the body of the tenancy agreement between the parties. The Respondent refused, or at least delayed, to remove herself from the property. It was reasonable in all of the circumstance that an order for possession should be granted.

- Decision

The Tribunal determined to grant the order for 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

Patricia Anne Pryce

18 March 2019

Legal Member/Chair

Date

*Insert or Delete as required