



**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 (hereinafter referred to as “the 1988 Act”) for Recovery of Possession
of a Short Assured Tenancy**

Chamber Ref: FTS/HPC/EV/19/3588

Re: Property at Flat 1-1, 2 Anderson Drive, Renfrew, PA4 8PL (“the Property”)

Parties:

**Mr Derick McCandless, Mrs Nicola McCandless, C/O Ritehome Ltd, 350
Glasgow Harbour Terraces, Glasgow, G11 6EG (“the Applicant”)**

**Mr David Anderson, Flat 1-1, 2 Anderson Drive, Renfrew, PA4 8PL (“the
Respondent”)**

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application for Recovery of Possession on termination of a Short Assured Tenancy under Section 33 of the Housing (Scotland) Act 1988. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained to parties. Parties understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant was represented by Robert Nixon, Ritehome Ltd, 350 Glasgow Harbour Terraces, Glasgow, G11 6 EG. Also in attendance from Ritehome was Amanda Smille.

The Respondent did not attend the Tribunal personally but had submitted a letter advising that his sister would attend on his behalf and there was no objection to same. Moria Brown, sister of the Respondent attended to represent the Respondent. K. K

Preliminary Matters

There were no preliminary matters arising. Moria Brown advised the Respondent suffers from mental health but did not seek an adjournment instead she indicated that she wanted to represent her brother as per his written authorisation. He had received advice as indicated in his letter lodged with the Tribunal.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

Case Management Discussion

Mr Nixon for the Applicants in his submission stated that the Applicant’s sought an Order for recovery of possession and that they were heritable proprietors of the property. Further that parties had entered into a Short Assured tenancy on 25th February 2013. It was agreed the tenancy was a valid Short Assured Tenancy and that the Respondent had received a Notice to Quit by recorded delivery post bringing the said tenancy to an end on the ish date, namely the 25th September 2019. The Respondent’s sister Moira Brown said that they had acted very promptly on receipt of the Notice to Quit but had struggled to find alternative accommodation for the Respondent. It was suggested that parties discuss the process of eviction out with the hearing given the efforts of the Respondent however in the circumstances the Tribunal had sufficient information to make a final decision in the case. Parties understood this. Moira Brown for the Respondent acknowledged her brother had received advice and was aware an Eviction Order would likely be granted and it was noted she was actively assisting her brother with same.

Facts Agreed

- It was accepted that the Applicant was the heritable proprietor of the Property.
- It was accepted that the AT5 had been served correctly at the outset of the tenancy and that the tenancy was a short assured tenancy.
- It was accepted that the relevant notices were valid and had been served terminating the short assured tenancy, proof of appropriate service having been lodged.
- The Respondent had been unable to leave the property prior to the Hearing due to having been unable to secure alternative accommodation, but this was being actively pursued.

Reasons for Decision

1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondents had received notification of the proceedings and had not challenged same by written representations or attendance.
2. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.
3. The Tribunal was satisfied that the tenancy was in terms of Section 32(1) of the 1988 Act, a Short Assured Tenancy for not less than 6 months and in relation to which a prescribed notice namely a valid AT5 had been served before creation of the short assured tenancy. It was accepted that the AT5 had been served correctly at the outset of the tenancy.
4. In terms of Section 33 of the 1988 Act the Tribunal considered that the Short Assured Tenancy had reached its ish.
5. Further the Tribunal was satisfied that no tacit relocation was operating, no further contractual tenancy was in existence and a vaild Notice to Quit had been served on the Respondent terminating the tenancy with the necessary notice given to the Respondent.
6. The Respondent's sister accepted on his behalf that the relevant notices had been received. Proof of a correct method of service of the Notice to Quit had been lodged. He had indicated they intended to leave the property but had been unable to secure alternative housing.
7. Accordingly in terms of Section 33 of the 1988 Act the Tribunal granted an order against the Respondent 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.

K.

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Date

15/1/20