



**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 (“the Act”)**

Chamber Ref: FTS/HPC/EV/19/0528

Re: Property at 21 1F1 Bathfield, Edinburgh, EH6 4DU (“the Property”)

Parties:

Mrs Gladys Davidson, East Deloraine, Etrick Valley, Selkirk, TD7 5DL (“the Applicant”)

Mr David Laidlaw, 21 1F1 Bathfield, Edinburgh, EH6 4DU (“the Respondent”)

Tribunal Members:

Steven Quither (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 is granted in terms of s33 of the Act.

BACKGROUND

By a Tenancy Agreement dated 17 December the parties agreed that as from 28 December, both 2012, the Respondent would rent the Property from the Applicant for a rent of £475 per calendar month. The initial term was to be 6 months but the Agreement also provided that thereafter the tenancy would continue on a month to month basis, which it appears to have done.

By virtue of a notice under s32 (AT5) of the Act dated 17 December 2012 also but served at a time before the Agreement was completed, the tenancy was created as a Short Assured Tenancy.

By application received by this Tribunal on 19 February 2019, the Applicant sought to bring the tenancy to an end. In support of same there was lodged (or copies as appropriate) said Tenancy Agreement and AT5, together with Notice under s33 of the Act and Notice to Quit, both dated 2 November 2018 requiring the Respondent to remove from the Property as at 29 January 2019 and confirmation under s11 of the

S Quither

Homelessness etc. (Scotland) Act 2003 that the application has been intimated to the relevant local authority.

Relevant documentation regarding today's Case Management Discussion was served on the Respondent by Sheriff Officers on 29 March and accordingly, in the absence of any request by him or on his behalf not to do so, I considered I was able to proceed with same, notwithstanding his absence.

CASE MANAGEMENT DISCUSSION

The Applicant was represented by Alasdair Bain and Kathryn Higgins from the submitting agents, Trinity Factoring Services Limited.

As previously stated, the Respondent chose not to appear or be represented.

In response to enquiry made by me about the fact that there did not appear to be any Royal Mail confirmation of collection of said s33 Notice and Notice to Quit, which had been the subject of earlier correspondence with this Tribunal, the Applicant's agents advised that the Respondent had contacted them by e-mail and telephone regarding both earlier such Notices and these Notices to seek time to arrange alternative accommodation but had now, as of today, moved out in any event.

Accordingly, it appears that notwithstanding any issue there might be regarding clarification of service being available from the Royal Mail, the Respondent was aware of these proceedings and had acted in pursuance of same. In any event, he did not appear to state any challenge as to their competency or merits.

Notwithstanding the Respondent having moved out, I was asked for the sake of clarity to make the order for repossession applied for.

FINDINGS IN FACT

Having considered the documentation available to me, I found that the parties entered into a Short Assured Tenancy for the duration and rent previously stated, which continued on a month to month basis after the expiry of its initial duration of 6 months and up until these proceedings.

I also found that all relevant procedural steps had been correctly and timeously taken by the Applicant to bring said Tenancy to an end.

REASONS FOR DECISION

Since all relevant procedural steps appeared to me to have been correctly and timeously taken by the Applicant, I was satisfied I could make the order for repossession applied for, which I accordingly now do.

DECISION

To grant the order for repossession now applied for by the Applicant.

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.

S Quither

S Quither

SR QUITHER
Legal Member/Chair

16 APRIL 2019
Date