

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Statement of Decision 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/18/0033**

**Re: Property at 27 Rhindmuir Grove, Baillieston, Glasgow, G69 6NE (“the Property”)**

**Parties:**

**The Accountant in Bankruptcy, 1 Pennyburn Road, Kilwinning, Ayrshire, KA13 6SA (“the Applicant”)**

**Ms Donna Stewart, 27 Rhindmuir Grove, Baillieston, Glasgow, G69 6NE (“the Respondent”)**

**Tribunal Members:**

**Graham Dunlop (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Order for Possession is granted under Section 33 of the Housing (Scotland) Act 1988**

**1. Background**

- a. The present proceedings are made under Rule 66 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”). The Applicant seeks an Order for Possession of the Property in terms of the provisions of Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”).
- b. The Respondent is the tenant of the property under a short assured tenancy dated 1<sup>st</sup> July 2010. The landlord of the property is Mr Robert Edward Roden. Mr Roden was sequestrated conform to copy award of sequestration dated 11<sup>th</sup> August 2014. The Applicant is the Trustee of Mr

Roden's Estate which includes the Property. The Applicant wishes to sell the Property for the benefit of the creditors of Mr Roden's estate.

## **2. Documents**

- a. The application made under Rule 66 was received on 5<sup>th</sup> January 2018 and included the following documents (the list is not exhaustive):
  - I. Copy Short Assured Tenancy Agreement dated 1<sup>st</sup> July 2010 between the Respondent and Mr Roden
  - II. Copy Notice to Quit addressed to the Respondent dated 14<sup>th</sup> September
  - III. Copy Notice to Glasgow City Council under section 11 of the Homelessness etc (Scotland) Act 2003
  - IV. Copy Award of Sequestration dated 11<sup>th</sup> August 2014

## **3. Discussion**

- a. A Case Management Discussion was fixed for 12<sup>th</sup> April 2017 at 2pm within the Glasgow Tribunals Centre. Mr Green of Harper Macleod Solicitors appeared on behalf of the Applicant. Ms Stewart appeared personally.
- b. Ms Stewart explained that she was led to believe by Mr Roden in February 2018 that an agreement had been entered into between Mr Roden and the Applicant which would enable Ms Stewart to remain as a tenant in the Property. Mr Green indicated that no agreement had been entered.
- c. The Respondent explained that she resided within the Property with her 6 children and was seeking alternative accommodation.

## **4. Findings in Fact**

- a. I find that the Respondent and Mr Roden entered into a Short Assured Tenancy on 1<sup>st</sup> July 2010 which ran until 1<sup>st</sup> January 2011 and thereafter ran on a monthly basis until lawfully terminated.
- b. That the Applicant served a Section 33 Notice and Notice to Quit by Sheriff Officers on 14<sup>th</sup> September 2017 requiring the Respondent to quit the property by 1<sup>st</sup> December 2017.

- c. The documentation before me, including proof of service, met the requirement under the Housing (Scotland) Act 1988 and 2017 Rules

## **5. Reasons for Decision**

- a. Having considered the application, all paperwork, and submissions made by both parties made at the CMD I was satisfied that:
  - I. That the requirements of section 33(1) of the 1988 Act have been met including the requirement of serving a Notice to Quit following the tenancy having reached its ish;
  - II. That the Applicant has complied with the requirements of the 2017 Rules; and
  - III. That the Respondent continues to reside within the Property despite the paperwork served in accordance with the 1988 Act and 2017 Rules.

## **6. Decision**

- a. The grounds for a section 33 possession were met and accordingly the order sought is granted.

## **7. Other Matters**

- a. I enquired whether there was any prospect of the Applicant delaying enforcement of the order for a period. Mr Green took his client's instructions who offered not to seek to enforce the order requiring the Respondent to quit the property for 10 weeks. During that time Ms Stewart undertook to permit surveyors to attend the property for the purpose of future marketing by preparation of a home report. That agreement does not form part of this order but I extend my gratitude to parties and their agents' collaborative approach to the CMD

## **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.**

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Graham Dunlop

14<sup>th</sup> APRIL 2018

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Legal Member/Chair

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Date