



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 32 of the Housing (Scotland)
Act 1988**

Chamber Ref: FTS/HPC/EV/18/0016

**Re: Property at 15 Cromarty Court, Livingston, West Lothian, EH54 5NE (“the
Property”)**

Parties:

**Hartfield Homes (Livingston) Limited, Pentland House, Damhead, Midlothian,
EH10 7DP (“the Applicant”)**

**Ms Rachel Clark, 15 Cromarty Court, Livingston, West Lothian, EH54 5NE (“the
Respondent”)**

Tribunal Members:

Ruth O’Hare (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) having determined that the short assured tenancy has reached its
finish, tacit relocation is not operating and the Applicant has given notice to
the Respondent that it requires possession of the house, makes an order for
repossession of the House in terms of section 33(1) of the Housing (Scotland)
Act 1988**

Background

- 1 By application to the Tribunal dated 27 December 2017 the Applicant applied to the Tribunal for an order for possession of a Short Assured Tenancy under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017 (“the Regulations”). The application was accompanied by an inventory of documents consisting of the following:-
 - (i) Tenancy Agreement between the Applicant and Respondent dated 20 July 2008;

- (ii) Form AT6 dated 10 April 2017;
 - (iii) Notice to Quit dated 10 July 2017;
 - (iv) Notice under Section 33 of the Housing (Scotland) Act 1988 dated 10 July 2017
- 2 By letters dated 4 January 2018 and 6 February 2018 the Tribunal requested further information from the Applicant which was provided timeously.
- 3 By Notice of Acceptance of Application dated 27 February 2018 the Legal Member of the First-tier Tribunal with delegated powers of the Chamber President intimated that no further documents were required. The application was therefore referred to a Case Management Discussion in accordance with Rule 17 of the Regulations.

Case Management Discussion

- 4 The Case Management Discussion took place on 3rd May 2018 at George House, Edinburgh. The Applicant was represented by Alastair Laird, Solicitor ("the Applicants' Agent"). Constance Newbould appeared on behalf of the Applicant in an observer capacity.
- 5 At the Case Management Discussion the Tribunal clarified that the order for repossession was sought under section 33 of the Housing (Scotland) Act 1988 and received confirmation from the Applicant's Agent that the required notices that had been submitted with the application had been served upon the Respondent by Sheriff Officers. There had been no response from the Respondent in respect of the current proceedings.

Findings in Fact

- 6 The following are findings in fact:-
- (i) The Tenancy between the Applicant and the Respondent is a Short Assured Tenancy as defined by section 32 of the Housing (Scotland) Act 1988 which commenced on 14th August 2008.
 - (ii) The Short Assured Tenancy has reached its finish as at 14 September 2017.
 - (iii) Tacit relocation is not operating.
 - (iv) The Applicant has served notice under section 33(1)(d) of the Housing (Scotland) Act 1988 upon the Respondent.

Reasons for Decision

- 7 The Tribunal made its determination of the application having regard to the application and the submissions from the Applicant's Agent at the Case Management Discussion.
- 8 The Tribunal was conscious that the Respondent had failed to enter the process and had failed to attend the case management discussion. Further, the Applicant's Representative had stated that she had failed to correspond with the Applicant regarding the proceedings. Accordingly no facts in dispute were identified by the Tribunal.
- 9 The Tribunal was satisfied from the submissions at the hearing by the Applicant's Representative that notice had been given to the Respondent in accordance with section 33(1)(d) of the Act and that Notice to Quit had been served bringing the tenancy to an end. The Tribunal received confirmation at the hearing that the notices had both been served upon the Respondent by Sheriff Officers, as had the application paperwork. She had failed to respond.
- 10 Accordingly, in the absence of any written representations or submissions from the Respondent, the Tribunal considered, in terms of Rule 18 of the Regulations, that it was able to make sufficient findings to determine the case, and that to do so would not be contrary to the interests of the parties. The Tribunal therefore determined that a hearing was not required in the matter and granted the order sought by the Applicant.
- 11 For the avoidance of doubt, the Tribunal did not consider that any unnecessary or unreasonable expense had been suffered by the Applicant by virtue of the Respondent's unreasonable behaviour and therefore did not grant any award for expenses under Rule 40 of the Regulations.

Right of Appeal

- 12 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.

Ruth O Hare

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Legal Member/Chair

3/5/18

Date