



**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/20/0640**

**Re: Property at Laight, Bowling Green Road, Stranraer, DG9 8AS (“the  
Property”)**

**Parties:**

**Mrs Anona Somasundaram, 140 Scrabo Road, Newtonards, Country Down,  
BT23 4NN (“the Applicant”)**

**Mr Stewart Cowan, Laight, Bowling Green Road, Stranraer, DG9 8AS (“the  
Respondent”)**

**Tribunal Members:**

**Helen Forbes (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an order for possession of the Property should be  
granted in favour of the Applicant.**

**Background**

1. This is an application dated 24<sup>th</sup> February 2020, made in terms of Rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) and Section 33 of the Housing (Scotland) Act 1988 (“the Act”). The Applicant is seeking recovery of possession on termination of a Short Assured Tenancy that commenced on 4<sup>th</sup> February 2008. The Applicant lodged a copy of the tenancy agreement between the parties, together with copy Form AT5 dated 12<sup>th</sup> December 2007, copy Notice to Quit and Section 33 Notice dated 26<sup>th</sup> and served on 27<sup>th</sup> July 2019, and copy Section 11 Notice submitted on 21<sup>st</sup> February 2020.

## **The Case Management Discussion**

2. A Case Management Discussion (“CMD”) took place by teleconference call on 31<sup>st</sup> July 2020. The Applicant was not in attendance and was represented by Ms Amanda Richardson, Solicitor. The Respondent was in attendance.
3. Ms Richardson moved the Tribunal to grant the order sought as all the requisite notices had been served correctly. The Applicant wishes to move into the Property.
4. The Respondent said that the Applicant had promised he could reside in the Property as long as the Applicant’s mother was alive. He runs his business from the Property. He had it on good authority that it was not the Applicant that was moving into the Property, but her estranged husband. It was his position that, because the notices had been served while the Applicant’s mother was still alive, the order ought not to be granted.
5. There was some discussion regarding the provisions of Section 33 of the Act. It was explained to the Respondent by the Tribunal that, provided the requisite notices had been served correctly, the Tribunal had no discretion over whether or not to grant the order. The Respondent was advised to take advice on this matter from the appropriate authorities. The Respondent raised the matter of whether an adjournment to consider mediation was appropriate in this case, in terms of Rule 28.

## **Findings in Fact**

6.
  - (1) The parties entered into a Short Assured Tenancy in respect of the Property on 4<sup>th</sup> February 2008. The period of the tenancy was for one year.
  - (2) Notice to Quit and Section 33 Notice dated 26<sup>th</sup> July 2019 were served on the Respondent on 27<sup>th</sup> July 2019.
  - (3) The Short Assured Tenancy has reached its ish date.
  - (4) The contractual tenancy terminated on 4<sup>th</sup> February 2020.
  - (5) Tacit relocation is not in operation.
  - (6) The Applicant has given the Respondent notice that she requires possession of the Property.

## **Reasons for Decision**

7. The Tribunal found that good reason for an adjournment in terms of Rule 28 had not been shown. Section 33 of the Act provides that the Tribunal shall make an order for possession if satisfied that the short assured tenancy has reached its finish and that tacit relocation is not operating. The contractual tenancy has been terminated and tacit relocation is not in operation. The Applicant has given the Respondent notice that she requires possession of the Property. In the circumstances, the Tribunal must grant the order sought.

## **Decision**

8. An order for possession of the Property is granted in favour of 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.**

**Helen Forbes**

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**Legal Member/Chair**

**31<sup>st</sup> July 2020**

**Date**