



**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/20/1751

Re: Property at 79D Main Street, Bainsford, FK2 7NZ (“the Property”)

Parties:

Mr Tristan Kerr, 18 Canaan Lane, Edinburgh, EH10 4SY (“the Applicant”)

Mr John Neilson, 79D Main Street, Bainsford, FK2 7NZ (“the Respondent”)

Tribunal Members:

Helen Forbes (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 of the Property should be granted against the Respondent under section 33 of the Housing (Scotland) Act 1988.

Background

1. This is an application dated 18th August 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 an order for possession of the Property.
2. The Applicant’s representative lodged a copy short-assured tenancy agreement which commenced on 23rd October 2017 for a period of six months and two-monthly thereafter, copy Form AT5 dated 23rd October 2017, copy Notice to Quit and Section 33 notice dated and served on 23rd March 2020 requiring the Respondent to remove from the Property by 23rd May 2020 and copy section 11 notice served on 23rd March 2020.
3. Notification of the CMD and application was made upon the Respondent by Sheriff Officers on 14th September 2020.

Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference on 9th October 2020. Neither party was in attendance. The Applicant was represented by Mr David Gray, Solicitor.
5. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD. The Tribunal determined that the requirements of Rule 24(1) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent, upon the representations of the Applicant’s representative and all the material before it.
6. Mr Gray moved the Tribunal to grant an order for possession of the Property, as all the relevant notices had been served and lodged.

Findings in Fact

7.
 - (i) The parties entered into a short assured tenancy in respect of the Property on 23rd October 2017 for a period of six months and two-monthly thereafter.
 - (ii) Notice to Quit and Section 33 Notice were dated and served on the Respondent on 23rd March 2020
 - (iii) The short assured tenancy has reached its ish date.
 - (iv) The contractual tenancy terminated on 23rd May 2020.
 - (v) Tacit relocation is not in operation.
 - (vi) The Applicant has given the Respondent notice that possession of the Property is required.

Reasons for Decision

8. 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 possession of the Property is required. In the circumstances, the Tribunal must grant the order sought.

Decision

9. An order for possession of the Property is granted against the Respondent under section 33 of the Housing (Scotland) Act 1988.

Right of Appeal

- 10. 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.**

Legal Member/Chair

9th October 2020
Date