



**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/20/2037

**Re: Property at 7G2 Kaims Terrace, Livingston, West Lothian, EH54 7EX (“the
Property”)**

Parties:

**Mr Tom Black and Mrs Stella Black, 2 Easterfield Court, Livingston, West
Lothian, EH54 7BZ (“the Applicant”)**

**Mr Lajos Zselepzi and Ms Aniko Acs, 7G2 Kaims Terrace, Livingston, West
Lothian, EH54 7EX (“the Respondent”)**

Tribunal Members:

George Clark (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be decided without a Hearing
and made an Order for Possession of the Property**

Background

By application, received by the Tribunal on 24 September 2020, the Applicant sought an Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), namely recovery of possession on termination of a Short Assured Tenancy.

The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 10 January 2017 and terminating on 9 January 2018. This was a replacement for a previous Short Assured Tenancy Agreement from 29 October 2012 until 29 April 2013. The Applicant also provided a copy of a Form AT5 Notice dated 29 October 2012, a Notice given under Section 33 of the 1988 Act and a Notice to Quit, both Notices requiring the Respondent to vacate the Property by 9 April 2020.

On 18 November 2020, the Tribunal advised the parties of the date and time of a Case Management Discussion and the Respondent was invited to make written representations by 9 December 2020.

The first-named Respondent did not make any written representations to the Tribunal but on 25 November 2020, the second-named Respondent emailed the Tribunal to say that her circumstances did not allow her to do anything other than wait until the Council offer her a place to which she can move with her daughter. She attached a copy of a letter from West Lothian Council dated 3 March 2020 which informed her that the Council had decided that she was unintentionally homeless and that they, therefore, had a duty to provide her with suitable permanent accommodation as soon as possible.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the afternoon of 7 January 2021. The Applicant, Mr Black, participated on behalf of himself and his wife, and the second-named Respondent, Ms Acs, represented herself and the first-named Respondent. Ms Acs was accompanied by a supporter, who was able to translate for her as necessary. She had not asked the tribunal to provide a translator.

Mr Black told the tribunal that Ms Acs and her partner had been excellent tenants and that the reason the Applicant needed to recover possession was that the mortgage term was coming to an end and the capital of the mortgage had to be repaid. This would necessitate selling the Property.

Ms Acs said that she completely understood the Applicant's position and that she had been willing to move out, but that she had to rely on the local authority providing her with suitable accommodation which, until now, they had not been able to do. The pandemic had probably played a part in the delay in offering alternative accommodation.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Section 33 of the 1988 Act states that the Tribunal shall make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence and that the landlord has given to the tenant notice stating that he requires possession of the house.

The Tribunal was satisfied that the tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy in existence between the Parties and that the Notice required under Section 33 of the 1988 Act had been properly given. Accordingly, the requirements of Section 33 had been met and the Tribunal was bound to make an Order for Possession of the Property.

The Notice to Quit on which the application relied was served prior to 7 April 2020, so the application is not affected by the terms of the Coronavirus (Scotland) Act 2020.

Decision

The Tribunal determined that the application should be decided without a Hearing and made an Order for Possession of the Property

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.

George Clark

Legal Member/Chair

7 January 2021
Date