



**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/23/0362**

**Re: Property at 107 Millhill, Musselburgh, EH21 7RP (“the Property”)**

**Parties:**

**PAR Residential Investments III LP, 3A Dublin Meuse, Edinburgh, EH3 6NW (“the Applicant”)**

**Miss Stacey Russell, 107 Millhill, Musselburgh, EH21 7RP (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Linda Reid (Ordinary Member)**

**Decision**

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

**Background**

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The application was dated 1<sup>st</sup> February 2023. The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. The Tribunal had before it the following documents:
  - a) Short Assured Tenancy Agreement signed 30<sup>th</sup> January 2015.
  - b) Form AT5 signed by the parties on 30<sup>th</sup> January 2015.
  - c) Notice to Quit dated 29<sup>th</sup> September 2022 requiring vacant possession as at 1<sup>st</sup> January 2023 with sheriff officer certificate of intimation dated 5<sup>th</sup> October 2022.
  - d) Section 33 Notice dated 29<sup>th</sup> September 2022 stating that the tenancy terminates on 1<sup>st</sup> January 2022.
  - e) Title deeds with reference MID137808.

- f) Section 11 Notice noting date of raising proceedings 1<sup>st</sup> February 2023 together with email service upon the local authority.
3. On 19<sup>th</sup> April 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 24<sup>th</sup> May 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 10<sup>th</sup> May 2023.
  4. On 20<sup>th</sup> April 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by leaving the paperwork in the hands of her son. This was evidenced by Certificate of Intimation dated 20<sup>th</sup> April 2023.

### Case Management Discussion

5. The Tribunal held a CMD on 24<sup>th</sup> May 2023 at 2pm by teleconferencing. The Applicant was not present but was represented by Ms Rachel Virtue, Properties Manager, Direct Lettings. The Respondent was present and represented herself.
6. Ms Virtue told the Tribunal that the order for eviction was still being sought. The owner of the company was winding the company down and was selling the properties owned by it. Ms Virtue said that, including this Property, there were two properties owned by the company that she was aware of. Both are to be sold.
7. The Respondent said that she was not in a position to oppose the application. She cannot obtain another private rented property due to the extremely high costs of renting privately. She has applied to her local council. She needs specific accommodation to take into consideration her disabled son’s needs. Her local authority has said that it will take action to rehouse her once she has been granted an order for eviction. She is unclear if that will occur now or once the notice to evict has been served upon her.
8. The Tribunal was satisfied that there were no issues of reasonableness to prevent an order for eviction being granted.

### Findings in Fact

9. The parties entered into a Short Assured Tenancy on 30<sup>th</sup> January 2015 for a 12 months period until 1<sup>st</sup> February 2016. An AT5 was signed by both parties on the same date as the lease. The rent payments of £795 are due on the 1st day of each month.
10. A Notice to Quit dated 29<sup>th</sup> September 2022 was served upon the Respondent requiring vacant possession as at 1<sup>st</sup> January 2023 with sheriff officer certificate of intimation dated 5<sup>th</sup> October 2022.

11. A Section 33 Notice dated 29<sup>th</sup> September 2022 stating that the tenancy terminates on 1<sup>st</sup> January 2022.
12. The Housing and Property Chamber received an application dated 1<sup>st</sup> February 2023.
13. The Respondent was not in a position to be able to oppose the granting of an order.
14. There were no issues of reasonableness before the Tribunal that would have prevented an order being granted.

#### Reasons for Decision

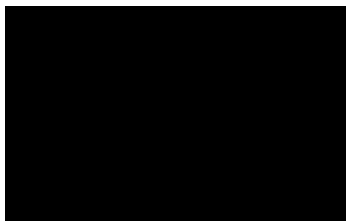
15. The Tribunal was satisfied that there were no issues of reasonableness before them and that the notices had been served in an appropriate manner and that a Short Assured Tenancy had been entered into by the parties. Given this the Tribunal was satisfied all appropriate paperwork had been served the Order for repossession was granted.

#### Decision

16. The Applicant is entitled to an Order for recovery of possession.

#### **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.**



**31st May 2023**

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**Legal Member/Chair**

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**Date**