



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/20/1857

Re: Property at 26 Millbuie Street, Elgin, IV30 6GE (“the Property”)

Parties:

Mr John Main, 1 Dunkinty, Elgin, IV30 8RA (“the Applicant”)

Mr Dariusz Stec, 26 Millbuie Street, Elgin, IV30 6GE (“the Respondent”)

Tribunal Members:

Rory Cowan (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 should be granted.

- Background

The Applicant seeks an Order for Possession relative to the Property under section 33 of the Housing (Scotland) Act 1988 (the 1988 Act).

Along with the Application, the Applicant had lodged:

- 1) The copy lease;
- 2) Form AT5;
- 3) Notice to quit;
- 4) Section 33 notice; and
- 5) Sheriff officer’s execution of service relative to the notices served.

- The Case Management Discussion

The case called for a Case Management Discussion (CMD) by way of conference call on 19 October 2020. The Applicant was in attendance and supported by his wife. The Respondent did not attend, nor had he lodged any written response to the Application.

The application and date of the CMD were intimated to the Respondent by way of sheriff officers on 22 September 2020.

The Applicant confirmed that the Respondent still occupied the Property and it was noted that there was a light on at the Property the week before the CMD. An Order for Possession was therefore still required.

- Findings in Fact and Law

- 1) The Applicant and the Respondent entered into a tenancy agreement in respect of the Property;
- 2) The tenancy was a short-assured tenancy with an initial ish on 24 April 2017.
- 3) The tenancy thereafter continued 6monthly under Tacit relocation with ish dates on 24 April and 24 October each year.
- 4) The Applicant served Notice to Quit and notice in terms of Section 33 of the Housing (Scotland) Act 1988 on 27 January 2020 indicating that the Applicant required possession of the property on or before 24 April 2020.
- 5) As at 24 April 2020 the short-assured tenancy reached its ish.
- 6) Tacit relocation was not operating.
- 7) No further contractual tenancy is in operation.
- 8) The required notice under s33(1)(d) has been given.
- 9) The Applicant is entitled to the Order sought.

- Reasons for Decision

Based on the information before the Tribunal, it could be determined that the requirements of section 33 of the 1988 Act had been met, the procedure adopted had been fair and there being no application of the Coronavirus (Scotland) Act 2020, the Applicant was entitled to an Order for Possession as sought.

- Decision

The Tribunal resolved to grant an Order for 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.



Legal Member/Chair

Date 19 October 2020