



**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 ('the Act')**

**Chamber Ref: FTS/HPC/EV/20/1102**

**Re: Property at 66, Beachmont Place, Dunbar, EH42 1YE ("the Property")**

**Parties:**

**Mrs Linda Wilson, Galabank, Belhaven Road, Dunbar, EH42 1NG ("the Applicant")**

**Mr William Brunton, 66, Beachmont Place, Dunbar, EH42 1YE ("the Respondent")**

**Tribunal Members:**

**Susan Christie (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 recovery of possession of the Property from the Respondent be granted in favour of the Applicant.**

**Background**

- 1 The Application under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") was made by the Applicant, received by the Tribunal on 20 April 2020.
- 2 A Notice of Acceptance of Application is dated 9 July 2020.
- 3 The Application seeks recovery of possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (the Act).
- 3 A Case Management Discussion (CMD) was scheduled for 26 August 2020. The Parties were written to by letter dated 5 August 2020.
- 4 Intimation on the Respondent was made by Sheriff Officer, mode of service by letterbox on 5 August 2020.
- 5 Written responses were due to be submitted by the Respondent by 19 August 2020. It appeared that the Respondent had made a response by e mail, but

other than the subject line/preview being seen, it could not be fully read. He had attached a copy of what appeared to be a photograph of the Sheriff officers service document. He was advised it could not be processed and asked to resubmit it. There was no further correspondence from the Respondent after that date.

### **The Case Management Discussion- 26 August 2020**

6. The Applicant participated.
7. The Respondent did not participate.
8. The Applicant was directed to submit evidence of the date and mode of service of the Notice to Quit and Section 33 Notice under the 1988 Act and provide evidence that the Section 11 Notice under the Homelessness etc. (Scotland) Act 2003 had been intimated on the local authority.
9. The Direction subsequently issued also required the Respondent to produce a full response in writing if he wished to oppose the application.
10. The Applicant did produce documents in response to the Direction date 26 August 2020, but the Respondent did not.

### **The Case Management Discussion- 21 October 2020**

11. The Applicant participated.
12. The Respondent did not participate.
13. The documents produced in response to the Direction were considered.

### **Findings in Fact**

14. The Applicant is the owner of and Landlord over the Property.
15. The Applicant entered into a Short Assured Tenancy (SAT) with the Respondent over the Property on 18 September 2012 for an initial term from 18 September 2012 to 19 March 2013 and monthly thereafter, recurring on 19<sup>th</sup> of every month.
16. The Short Assured Tenancy continued monthly by agreement after the initial term.
17. A Notice to Quit dated 12 February 2020 was served on the Respondent on the same date and was hand delivered by the Applicant.
18. The contractual Short Assured Tenancy (SAT) ended by reason of the Notice to Quit on 19 April 2020.
19. A Section 33 Notice in terms of the 1988 Act was served on the Respondent, at the same time on 12 February 2020 by the Applicant, in writing and complied with the requirements under Section 33 (1) (d). It was given with 2 months' notice.
20. A Section 11 Notice under the Homelessness etc. (Scotland) Act 2003 had been intimated on the local authority by the Applicant.

## **Reasons for Decision & Decision**

I was satisfied that a decision could be made today on the undisputed facts and as there was enough material before me to do so. I was satisfied that the procedure was fair.

I was satisfied that the tenancy between the Parties was a SAT under Section 32 of the Act.

I require to grant recovery of the Property in terms of Section 33 of the Act if I am satisfied

- The SAT has reached its finish
- That tacit relocation is not operating
- That no further contractual tenancy is in existence and
- The landlord has given to the tenant notice stating that it requires possession of the house, on a period of notice of 2 months.

I also required to be satisfied that the Applicant had complied with the terms of Section 19A of the Act and that a Section 11 Notice under the Homelessness etc. (Scotland) Act 2003 had been intimated on the local authority by the Applicant.

The Applicant is entitled to recovery of possession of the Property from the Respondent, the requirements set out in Section 33 and Section 19A of the 1988 Act having been satisfied.

The Application dated 20 April 2020 for recovery of possession of the property is accordingly granted.

## **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.**

Susan Christie  
**Legal Member/Chair**

**21 October 2020**  
**Date**