



**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**

Reference number: FTS/HPC/EV/20/2396

Order granted on 12 January 2021

Property: 2 Granton Gardens, Edinburgh, EH5 1AX

Parties:

North Edinburgh Properties C Ltd, a company incorporated under the Companies Acts and having a place of business at 5 Upper Gray Street, Edinburgh, EH9 1SN ("the Applicant")

David Gibson, residing at 2 Granton Gardens, Edinburgh, EH5 1AX ("the Respondent")

**Tribunal Members:**

**Paul Doyle (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes an order for possession of the Property in terms of section 33 of the Housing (Scotland) Act 1988.**

**Background**

The Applicant sought recovery of possession of the Property in terms of Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to Quit and s.33 notice, both served on 23 January 2020, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is heritable proprietor of the Property.

## **Case Management Discussion**

A case management discussion took place by telephone conference at 2pm on 12 January 2021. The Applicant was represented by Ms N Caldwell of TC Young, solicitors. The respondent was present and supported by Ms J Sapeira.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Respondent entered into a short-assured tenancy Agreement for the Property with the applicant's predecessor in title on 24 August 2016. The lease initially ran from 24 August 2016 to 24 February 2017.
2. The rent in terms of the Tenancy Agreement was £625 per month.
3. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
4. A notice to quit and a s.33 notice were served on the Respondent on 23 January 2020. The tenancy is a short-assured tenancy and the respondent received the notice to quit and the s.33 notice timeously. The s.33 notice brought the tenancy to an end on 24 March 2020.
5. The Applicant sought recovery of possession of the Property in terms of s.33 of the Housing (Scotland) Act 1988 because the short-assured tenancy had been brought to an end on 24 March 2020 by the service of the s.33 notice.
6. Sheriff Officers served notice of today's hearing on the respondent on 3 December 2020. The respondent offers no resistance to this application.
7. The respondent has no competent answer to the application for repossession.

## **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 33 of the 1988 Act. The tenancy was a short-assured tenancy. Correct notice was given which brought the short-assured tenancy to an end on 24 March 2020. The basis for possession set out in s.33 of the 1988 Act is established. The respondent offers no defence to the application. The finite time for occupancy of the property as a short-assured tenancy has come to an end. For these reasons, the Tribunal determined to grant an Order for possession.

## **Decision**

For the foregoing reasons, the Tribunal determined to make 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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

12 January 2021

Paul Doyle - Legal Member