



**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/20/1121

Re: Property at 30/2 Wardieburn Road, Edinburgh, EH5 1LX (“the Property”)

Parties:

Miss Michelle White, 217 Pilton Avenue, Edinburgh, EH5 2HE (“the Applicant”)

Mr William Donald McKay, 30/2 Wardieburn Road, Edinburgh, EH5 1LX (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This is an application dated 23rd April 2020 and brought in terms of Rule 66 (Application for order for possession upon termination of a short assured tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant provided with her application copies of the short assured tenancy agreement, form AT5, notice to quit, section 33 notice, Section 11 notice, and relevant executions of service.

All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 9th July 2020, and the Tribunal was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held at 14.00 on 11th August 2020 by Tele-Conference. The Applicant did not participate, but was represented by Mr Runciman, solicitor. The Respondent participated, and was not represented.

The Tribunal was invited by Mr Runciman with reference to the application and papers to grant the order sought.

The Respondent explained that he had been trying to obtain another tenancy, but that he had been delayed in doing so by the coronavirus pandemic. He had now obtained a tenancy which was to commence on 18th August 2020. He was arranging to remove from the Property and expected to have completed that process and to hand back the keys by Friday 21st August 2020.

The Respondent asked that the Tribunal not grant any eviction order, as he was about to leave and did not wish an order registered against him.

The Tribunal explained the procedures that apply in relation to applications such as this, and that it had no discretion other than to grant the order sought by the Applicant.

Mr Runciman confirmed that the Applicant did seek an order from the Tribunal today, but agreed that the order could not be enforced before 11th September, with the result that if the Respondent did move out then no enforcement action would be necessary.

Statement of Reasons

In terms of Section 33 of the *Housing (Scotland) Act 1988*, the Tribunal shall make an order for possession of the house let on the tenancy if:

- (1) the short assured tenancy has reached its end;
- (2) tacit relocation is not operating; and
- (3) the landlord has given to the tenant notice stating that he requires possession of the house.

All of the above criteria have been satisfied in this application, and accordingly the Tribunal shall make an order for possession.

Decision

In these circumstances, the Tribunal will make an order for possession of the house let on the tenancy as sought in this application.

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.

Neil Kinnear

11/08/2020

Legal Member/Chair

Date