

**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/22/0725**

**Re: Property at 38 G2 Kings Road, Edinburgh, EH15 1DY (“the Property”)**

**Parties:**

**Mr Bill Salmond, 89 Inchview Terrace, Edinburgh, EH7 6TT (“the Applicant”)**

**Mr Thomas Rodriguez, 38 G2 Kings Road, Edinburgh, EH15 1DY (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Melanie Booth (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.**

**Background**

1. The Applicant submitted an application under Rule 66 for an order to evict the Respondent from the property.
2. By decision dated 30 March 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant on 31 March 2022. Letters were issued on 3 May 2022 informing both parties that a case management discussion had been assigned for 10 June 2022 at 10am, which was to take place by conference call. The parties were advised that they were required to participate in the case management discussion. The Respondent

was invited to make written representations. No written representations were received by the Tribunal.

### **The Case Management Discussion**

4. The case management discussion proceeded by conference call. The Applicant was represented by Miss Wooley and the discussion proceeded in the absence of the Respondent. The Tribunal observed that the notice in terms of section 33 and the notice to quit were served on the Respondent on 16 July 2020. It was also observed that there are significant rent arrears due by the Respondent; despite attempts by the Applicant to agree a repayment plan, the level of rent arrears has increased. The Applicant's representative advised that there has been no recent contact with the Respondent. Given that the requisite notices have been served and the extensive rent arrears it was submitted that it is reasonable in all of the circumstances to grant the order for eviction.

### **Findings in Fact**

5. The parties entered into a short assured tenancy which commenced 15 November 2017.
6. The Applicant's representative served the Notice to Quit and Section 33 Notice on the Respondent by sheriff officer on 16 July 2020.
7. The short assured tenancy had reached its ish.
8. Tacit relocation was not operating.
9. No further contractual tenancy is in operation.

### **Reason for Decision**

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Respondent failed to lodge written submissions and failed to participate in the case management discussion. The Respondent received the notice to quit and section 33 notice almost 2 years ago. According to the rent statement lodged, the Respondent has been in arrears of rent since June 2019. The Tribunal was satisfied that the tenancy had been terminated in accordance with section 33 of the Act and that no further tenancy was in operation. In light of the information provided, the Tribunal was satisfied that it is reasonable for the Tribunal to grant the order for eviction.

## 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.

Nicola Irvine

Legal Member/Chair

10 June 2022

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Date