

Housing and Property Chamber
First-tier Tribunal for Scotland



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/21/1413

Re: Property at 0/1, 31 Kilmailing Road, Glasgow, G44 5UH (“the Property”)

Parties:

Mr Stephen Taylor, 2 Sandy Lane, Aylsham (“the Applicant”)

Mr Stuart Mathieson, 0/1, 31 Kilmailing Road, Glasgow, G44 5UH (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Mary Lyden (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.

[1] Background

The Applicant submitted an application for an order to evict the Respondent from the property. A case management discussion took place on 30 September 2021 and reference is made to the note of that discussion. The Applicant lodged an affidavit of his letting agent which provides details of when and how the form AT5 was served on the Respondent prior to the commencement of the tenancy.

[2] The Case Management Discussion

The Applicant participated personally and was represented by Mr Chisholm. The case management discussion proceeded in the absence of the Respondent. Mr Chisholm advised that the Applicant seeks to rely upon Section 33 of the Housing (Scotland) Act 1988. The Applicant’s position was that the

conditions set out in Section 33 of the Act have been met and the short assured tenancy terminated at the ish. It was submitted that it was reasonable in all of the circumstances for the order for eviction to be granted. The Respondent had incurred rent arrears of £11,624.50. The Section 33 notice was served 15 months ago, which has allowed the Respondent sufficient time to find alternative accommodation.

[3] **Findings in Fact:**

- i. The Respondent entered into a Tenancy Agreement, signed on 27 November 2013.
- ii. The tenancy commenced on 15 November 2013 and was for a period of 6 months. Thereafter, the tenancy continued on the same terms.
- iii. The Applicant's agent served notice on terms of Section 33 of the Housing (Scotland) Act 1988 on 12 August 2020 indicating that the Applicant required the Respondent to remove from the property not before 15 May 2021.
- iv. The short assured tenancy had reached its ish.
- v. Tacit relocation was not operating.
- vi. No further contractual tenancy is in operation.

[4] **Reason for Decision**

The Tribunal proceeded on the basis of the written documents which were before it. The Respondent was given an opportunity to make written representations. He did not do so, nor did he participate in the case management discussions. The Applicant's representative invited the Tribunal to make the Order sought. The Applicant relied upon Section 33 of the Act. The notice had been properly served. The Tribunal was satisfied that conditions of Section 33 had been met and that it was reasonable in the circumstances of this case to grant an order for eviction. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

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.

N. Irvine

Legal Member/Chair

16 November 2021

Date