



**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/22/2479

Property: Flat 3/2, 7 Townhead Terrace, Paisley PA1 2AU ("Property")

Parties:

**Auberne Estates Limited, 27 Smith Way, Bishopbriggs, Glasgow G64 1FD
("Applicant")**

**Patten & Prentice LLP, 2 Ardgowan Square, Greenock PA16 8PP ("Applicant's
Representative")**

Richard Miller, Flat 3/2, 7 Townhead Terrace, Paisley PA1 2AU ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Mary Lyden (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber)
("Tribunal") determined that an order for possession of the Property should be
made.**

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Short Assured Tenancy Agreement dated 30 June 2005; AT5 dated 30 June 2005; Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") both dated 9 May 2022 addressed to the Respondent; sheriff officer's certificate of service dated 9 May 2022; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with email acknowledging receipt dated 22 July 2022; and certificate of service by Sheriff Officer evidencing service of the Application on the Respondent on 14 November 2022.

Case Management Discussion (“CMD”)

A CMD took place on 13 December 2022 at 10am by conference call. In attendance for the Applicant was Melissa Wilson of the Applicant’s Representative. There was no appearance by the Respondent. The Application had included a submission regarding the question of reasonableness in which the Tribunal were told that the director and shareholder of the Applicant was Irene McColl and that her husband, who had been a director and shareholder had died on 5 March 2021. The Tribunal were told that the Applicant was a property business that had been managed by Mr McColl and Mrs McColl wished to withdraw from the private rented sector and sell the Property to assist with repaying a government bounce back loan obtained by the Applicant during covid. Ms Wilson told the Tribunal that the Applicant had a portfolio of 14 properties. One had been sold and this Property had been earmarked for sale as the Applicant was concerned that common repairs may become an issue as the Property was part of an old tenement building.

Ms Wilson did not have any information as regards the circumstances of the Respondent. The Tribunal asked Ms Wilson to contact her client to find out about the circumstances of the Respondent. The Tribunal adjourned to allow Ms Wilson to contact her client.

The Tribunal resumed the Hearing. Ms Wilson told the Tribunal that Mrs McColl of the Applicant had not spoken to the Respondent. She said that contact had been with Mrs McColl’s late husband. She said that there were no arrears of rent and that the rent was paid direct by Renfrewshire Council. She said that the Property had one bedroom and the Applicant understood that the Respondent lived there alone. As far as the Applicant was aware, the Respondent was not working and was in receipt of benefits.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 30 June 2005.
2. The Respondent had signed the form AT5 on 30 June 2005.
3. The tenancy was for the period 1 July 2005 to 30 June 2006 and continued by tacit relocation.
4. A Notice to Quit dated 9 May 2022 was served on the Respondent on 9 May 2022 stating that the tenancy would terminate on 30 June 2022.

5. A Notice in terms of Section 33 of the 1988 Act dated 9 May 2022 was served on the Respondent on 9 May 2022 stating that possession of the property was required on 9 July 2022.
6. The tenancy reached its *ish* on 30 June 2022 and is not continuing by tacit relocation.
7. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

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 Tribunal noted that the tenancy had been properly created as a short assured tenancy. The Tribunal noted that a Section 33 Notice and Notice to Quit had been served on the Respondent giving two months' notice that the Applicant required possession of the Property. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

Decision

The Tribunal grants an Order for possession of the Property.

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.

Joan Devine

Legal Member

Date : 13 December 2022