



**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/18/0916

Re: Property at 25 Ruskin Lane, Glasgow, G12 8EA (“the Property”)

Parties:

C/O Infiniti Properties, 1016 Argyle Street, Glasgow, G3 8LX (“the Applicant”)

**Ms Catherine McGunnigle, 25 Ruskin Lane, Glasgow, G12 8EA (“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 16th April 2018 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 its 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.

Case Management Discussion

A Case Management Discussion was held on 11th September 2018 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant did not appear, but was represented by Mr Ritchie, solicitor. The Respondent did not appear, but was represented by Mr Chaudry, solicitor.

This Case Management Discussion was continued from 20th July 2018. The purpose of that continuation was to allow Mr Ritchie to consider and respond to submissions made by Mr Chaudry concerning the title of the Applicant to grant a lease of the Property, in circumstances where she was not the heritable proprietor.

Mr Ritchie candidly conceded that a letter of authority dated 11th July 2018 which he had earlier provided to the Tribunal from the heritable proprietor of the Property, Triesman Associates Limited, merely confirmed that the Applicant currently has authority to enter into lease agreements with any third party, and did not confirm that she had such authority at the time the short assured tenancy was entered into on 9th June 2016.

He tendered a fresh letter of authority dated 6th September 2018, which he had previously intimated to Mr Chaudry, which confirmed that the Applicant had such authority as at the time she entered into the lease with the Respondent.

In turn, Mr Chaudry candidly accepted that the production of this replacement letter of authority met his objection, and that he was no longer as a result in a position to oppose the granting of the order sought.

However, he noted that there are other proceedings before the Tribunal which require an inspection of the Property to take place on 24th October 2018. His client wished to remain in the Property until that date, and would thereafter require one week to make arrangements to vacate it.

Mr Ritchie confirmed to the Tribunal that in the circumstances outlined by Mr Chaudry he was content to give the Tribunal a formal undertaking not to instruct the eviction to take place prior to 1st November 2018, which undertaking I formally record.

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:

- (a) the short assured tenancy has reached its end;
- (b) tacit relocation is not operating;
- (c) no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
- (d) 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, I 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

Legal Member/Chair

11/09/18

Date