

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/18/2254

Re: Property at 131 South Street, Armadale, EH48 3JT (“the Property”)

Parties:

Ms Janice Leary, 28 Castle Road, Bathgate, EH48 2UQ (“the Applicant”)

Mr Robert McNee, 131 South Street, Armadale, EH48 3JT (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the property at 131 South Street Armadale EH48 3JT be granted in terms of s33(1) of the Housing (Scotland) Act 1988 as the tribunal is satisfied that the terms of s33(1) are met.

This is a case management discussion ‘CMD’ regarding an application for possession of the above noted property in terms of s33 of the Housing (Scotland) Act 1988, ‘the Act’ and rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ The application was made on behalf of the applicant, the owner of the property, by Ms Jacqueline Duggan of Let Link Ltd.

The tribunal had before it the following copy documents:

1. Application dated 22 August 2018 and received by the Tribunal on that date.
2. Copy tenancy agreement between Alex Walker and Janice Leary trading as AJ Properties and the respondent dated 11 May 2015.
3. AT5 dated 11 May 2015.

4. S33 notice dated 6 June 2018.
5. Notice to quit dated 6 June 2018.
6. Royal mail certificate of posting and proof of delivery dated 8 June 2018.
7. Letter sent to respondent by applicant's agents dated 6 June 2018.
8. S11 notice to local authority.
9. Execution of service of application and notice of CMD on respondent personally by sheriff officer on 24 October 2018.

Case management discussion

The respondent did not attend the CMD and was not represented. The tribunal had sight of the sheriff officer execution of service which confirmed the papers were served personally on the respondent on 24 October 2018. The applicant was represented by Mr Steven Rollo of Let Link Ltd. Mr Rollo was seeking an order for possession of the property. He confirmed that no further letting agreement has been entered into with the respondent since the notice to quit was served.

Findings in fact

The tribunal finds in fact that :-

1. The applicant is the owner of the property.
2. The applicant and Mr Alex Walker entered into a short assured tenancy agreement with the respondent on 11 May 2015 at 12 noon for a period of 6 months from 11 May 2015 to 11 November 2015 and month to month thereafter.
3. An AT5 form was signed by the respondent on 11 May 2015 at 11.45 am.
4. The applicant's agents served a valid notice to quit and s33 notice on the respondent on 6 June 2018 to bring the tenancy to an end on 11 August 2018.
5. The short assured tenancy has reached its end.
6. Tacit relocation is not operating.
7. No further contractual tenancy is in existence.

Reasons

The tribunal considered the written evidence lodged carefully. The tribunal is satisfied that the respondent has received proper notification of the CMD in terms of rule 24. The tribunal is also satisfied that it is appropriate to proceed in the absence of the respondent in terms of rule 29. The tribunal is satisfied that it has sufficient information before it to make a decision and that the procedure has been fair. This is

a mandatory ground in terms of s33 of the Act if the terms of s33(1) are met and accordingly the tribunal granted an order for possession.

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.

14 November 2018

Lesley A Ward Legal Member

Date