



**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/20/0131**

**Re: Property at Flat 0/1, 1248 Cathcart Road, Battlefield, G42 9EY (“the Property”)**

**Parties:**

**Mr Gerrard McGrath, 22 Ormonde Avenue, Glasgow, G44 3QX (“the Applicant”)**

**Mr Matthew Booth, Flat 0/1, 1248 Cathcart Road, Battlefield, G42 9EY (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Possession of the Property.**

**Background**

By application, received by the Tribunal on 15 January 2020, the Applicant sought an Order for Possession under of the Property Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”).

The application was accompanied by copies of a Short Assured Tenancy Agreement between the Parties for a period of 6 months from 5 January 2016, a Form AT5 Notice dated 5 January 2016, a Notice to Quit and a Notice given under Section 33 of the 1988 Act (Form AT6), both Notices being dated 25 October 2019 and both requiring the Respondent to vacate the Property by 5 January 2020, with evidence of service of both Notices on the Respondent by sheriff officer on 30 October 2019.

On 10 February 2020, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations to the Tribunal by 2 March 2020. The Respondent did not make any written representations.

### **Case Management Discussion**

A Case Management Discussion was held at Glasgow Tribunals Centre on the morning of 12 March 2020. The Applicant was represented by Miss Nicola Caldwell of T C Young LLP, solicitors, Glasgow and the Applicant's mother was also present. The Respondent was present and was supported by Mr James McKerlie, a church pastor. Miss Caldwell asked the Tribunal to make the Order for Possession without a Hearing.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Section 33 of the 1988 Act states that the Tribunal shall make an Order for Possession of a house let under a Short Assured Tenancy if it is satisfied that the tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence and that the landlord has given to the tenant notice stating that he requires possession of the house.

The Tribunal was satisfied that the tenancy reached its end on 5 January 2020, that, by service of the Notice to Quit, tacit relocation was not operating, that no further contractual tenancy was in existence and that the Applicant had given the Notice required under Section 33 of the 1988 Act (Form AT6). Accordingly, the Tribunal was bound to make an Order for Possession of the Property

### **Decision**

The Tribunal determined that the application should be decided without a Hearing and made 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.

**Mr George Clark**

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Legal Member/Chair

**12/03/2020**

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Date