



**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 (Act)**

Chamber Ref: FTS/HPC/EV/19/2775

Re: Property at 19C Balcarres Road, Musselburgh, EH21 7SD (“the Property”)

Parties:

**Mrs Anne Creelie, CauldCoats Cottage, Millerhill Road, Dalkeith, Midlothian,
EH22 1SH (“the Applicant”)**

**Ms Zoe Collins, 19C Balcarres Road, Musselburgh, EH21 7SD (“the
Respondent”)**

Tribunal Members:

Alan Strain (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the order for eviction and recovery of possession
be granted.**

Background

This is an application for eviction and recovery of possession under section 33 of the Act and Rule 66 of the Tribunal Procedure Rules following upon termination of a Short Assured Tenancy (**SAT**).

The Tribunal had regard to the following documents:

1. Application received 5 September 2019;
2. AT5 dated 25 April 2013;
3. Short Assured Tenancy commencing 25 April 2013;
4. Notice to Quit dated 16 April 2019;
5. Section 33 Notice dated 16 April 2019;
6. Certificate of Service by Sheriff Officers of Notice to Quit and Section 33 Notice dated 18 April 2019;

7. Section 11 Notice to Local Authority;
8. Sheriff Officer Certificate of Service of CMD Notification;
9. CMD Note dated 5 November 2019.

Case Management Discussion (CMD)

The case called for a CMD on 21 November 2019. It had been continued from a previous CMD held on 5 November 2019 for the Applicant's Solicitor to address the Tribunal on whether or not an AT6 was necessary and whether there were any defects in the Short Assured Tenancy which have any impact upon the competency of the application.

The Applicant was not present but was represented by her Solicitor. The Respondent appeared and was represented by Mr Geary (CAB).

The Representatives addressed the Tribunal and confirmed that agreement had been reached to the effect that the order for eviction and recovery of possession be granted. The Parties agreed that the Respondent would remain in the property until 16 January 2020.

The Tribunal made the following findings in fact:

1. The Parties entered in to the SAT commencing 25 April 2013;
2. Valid Notice to Quit and Section 33 Notices were served on 18 April 2019;
3. The SAT reached its ish date and terminated at 25 July 2019;
4. Tacit relocation was no longer operating;
5. Section 11 Notice had been served on the local authority;
6. The Respondent remained in occupation of the Property.

The Tribunal found that there was no requirement to serve an AT6 and that there were no defects in the SAT which had any bearing on the competency of the proceedings.

The Tribunal considered the requirements of section 33 and found that the SAT had reached its ish, been validly terminated, tacit relocation was no longer operating and accordingly the requirements of the section had been met.

The Tribunal granted the order for eviction and recovery of possession as sought by the Applicant.

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.

Alan Strain

Legal Member/Chair

21 November 2019

Date