



**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 (hereinafter referred to as “the 1988 Act”) for Recovery of Possession  
of a Short Assured Tenancy**

**Chamber Ref: FTS/HPC/EV/20/0915**

**Re: Property at 4/12 Lochend Butterfly Way, Edinburgh, EH7 5BF (“the  
Property”)**

**Parties:**

**Cityscape Edinburgh LLP, 1 Hay Avenue, Edinburgh, EH16 4RW (“the  
Applicant”)**

**Mr Henryk Tomasz Czajkowski, 4/12 Lochend Butterfly Way, Edinburgh, EH7  
5BF (“the Respondent”)**

**Tribunal Members – Karen Kirk, Legal Member.**

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application for Recovery of Possession on termination of a Short Assured Tenancy under Section 33 of the Housing (Scotland) Act 1988. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained to parties. Parties understood a final decision on the Application could also be made.

**Attendance and Representation**

The Applicant was represented by Kirsty Morrison, TC Young Solicitors, 7 west George Street, Glasgow, G2 1BA.

The Respondent attended the Tribunal personally.

**Preliminary Matters**

There were no preliminary matters arising.

## **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.**

## **Case Management Discussion**

Ms Morrison for the Applicants in her submission that the Applicant’s sought an Order for recovery of possession. Further that parties had entered into a Short Assured tenancy on 15<sup>th</sup> July 2016. It was agreed by both parties that he tenancy was a valid Short Assured Tenancy and that the Respondent had received a Notice to Quit by recorded delivery post bringing the said tenancy to an end on the ish date, namely the 16<sup>th</sup> December 2019. The Respondent accepted he received the Notice to Quit and that the Tenancy had been a Short Assured Tenancy. The Respondent confirmed he had been able to get legal advice from Shelter and was aware of the likely circumstances.

## **Facts Agreed**

- It was accepted that the AT5 had been served correctly at the outset of the tenancy and that the tenancy was a short assured tenancy.
- It was accepted that the relevant notices were valid and had been served terminating the short assured tenancy, proof of appropriate service having been lodged.

## **Reasons for Decision**

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent was present at the hearing and all material issues were in agreement.**
- 2. The Tribunal was satisfied that the tenancy was in terms of Section 32(1) of the 1988 Act, a Short Assured Tenancy for not less than 6 months and in relation to which a prescribed notice namely a valid AT5 had been served before creation of the short assured tenancy. It was accepted that the AT5 had been served correctly at the outset of the tenancy.**
- 3. In terms of Section 33 of the 1988 Act the Tribunal considered that the Short Assured Tenancy had reached its ish.**
- 4. Further the Tribunal was satisfied that no tacit relocation was operating, no further contractual tenancy was in existence and a valid Notice to Quit had been served on the Respondent terminating the tenancy with the necessary notice given to the Respondent.**

5. The Respondent accepted that the relevant notices had been received. Proof of a correct method of service of the Notice to Quit had been lodged.
6. Accordingly in terms of Section 33 of the 1988 Act the Tribunal granted an order against the Respondent 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.

10<sup>th</sup> August 2020

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Legal Member/Chair

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Date