



**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/19/2516**

**Re: Property at 3 John Humble Street, Mayfield, Dalkeith, Midlothian, EH22 5QZ  
("the Property")**

**Parties:**

**Mr Robert Bennet, Mrs Heather Bennet, c/o 31A North Bridge Street, Bathgate,  
West Lothian, EH47 4PJ ("the Applicant")**

**Mr Mario Bogert and Mrs Stefanie Davies-Bogert, 3 John Humble Street,  
Mayfield, Dalkeith, Midlothian, EH22 5QZ; 3 John Humble Street, Mayfield,  
Dalkeith, Midlothian, EH22 5QZ ("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 granted without a Hearing  
and made an Order for Possession of the Property.**

**Background**

By application, received but the Tribunal on 12 August 2019, the Applicant sought an Order for Possession under 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, commencing on 3 July 2017, a Form AT5 Notice dated 3 July 2017, given under Section 32 of the 1988 Act, a Notice given under Section 33 of the 1988 Act, dated 12 April 2019, advising the Respondent that the Applicant required possession of the Property by 2 August 2019 and a Notice to Quit, dated 4 July 2019, requiring the Applicant to remove from the Property by 2 August 2019, with proof of service by sheriff officers.

On 28 August 2019, 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 by 18 September 2019. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at Riverside House, Gorgie Road, Edinburgh on the morning of 7 October 2019. The Applicant was represented by Miss Euphemia Mathieson of Bannatyne, Kirkwood, France & Co, solicitors, Glasgow. The Respondent was present. The Applicant's representative asked the Tribunal to make the Order for Possession without a Hearing.

The Respondent, Mrs Davies-Bogert, advised the Tribunal that she understood there was no defence to the application and that the Tribunal was bound to grant the Order. She had been trying very hard to obtain local authority accommodation and those efforts were continuing.

### **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 and that it would determine 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 on 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 notice under Section 33(1) of the 1988 Act that he requires possession of the house. The Tribunal was satisfied from the evidence before it that the Short Assured Tenancy had reached its end, that, by service of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy in existence and that the Notice required under Section 33(1) of the 1988 Act had been validly given. Accordingly, the Tribunal was bound to grant an Order for Possession.

### **Decision**

The Tribunal determined that the application should be granted 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.**

George Clark

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**Legal Member/Chair**

7 October 2019  
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**Date**