



**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/19/0681**

**Re: Property at 4 Crewe Terrace, Edinburgh, EH5 2JU**

**Parties:**

**McTaggart and Mickel Homes Limited (“the Applicant”)**

**DJ Alexander Lettings Ltd, 1 Wemyss Place, Edinburgh, EH3 6DH (“the  
Applicant’s Representative”)**

**Ms Elaine Byrne and Ms Teri Naomi Byrne Wallace Lawson, 4 Crewe Terrace,  
Edinburgh, EH5 2JU (“the Respondent”)**

**Tribunal Members:**

**Ruth O’Hare (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined to make an order for repossession of the property  
against the Respondents.**

**Background**

- 1 By application dated 1 March 2019 the Applicant sought an order for recovery of possession of the property under section 33 of the Housing (Scotland) Act 1988.
- 2 Following submission of the application a Case Management Discussion was assigned for 15<sup>th</sup> May 2019. The application paperwork together with notification of the Case Management Discussion was subsequently served upon the Respondents by Sheriff Officers.
- 3 A request for postponement of the Case Management Discussion was submitted by the Applicant’s Representative however due to an administrative

oversight the request was not considered. Neither party attended the Case Management Discussion. Accordingly having regard to the circumstances the Tribunal determined to adjourn the Case Management Discussion to a later date. A further Case Management Discussion was therefore assigned for 1<sup>st</sup> July 2019. The Applicant and the Respondents were notified by recorded delivery mail.

### **The Case Management Discussion**

- 4 The Case Management Discussion took place on 1<sup>st</sup> July 2019 at George House, Edinburgh. David Gibb and Dayna Greeney attended on behalf of the Applicant's Representative. Neither the Applicant nor the Respondent were in attendance.
- 5 The Tribunal had before it the application paperwork which included the Tenancy Agreement between the parties, AT5 Notice, Notice to Quit and section 33(1)(d) notice. Mr Gibb explained that the Respondents were still in the property therefore the order was required. There had been no recent contact from them.

### **Findings in Fact and Law**

- 6 The Applicant and the Respondents entered into a Tenancy Agreement dated 13<sup>th</sup> June 2014 in respect of the Property, the term of which was 13<sup>th</sup> June 2014 to 13<sup>th</sup> December 2014 and monthly thereafter.
- 7 The tenancy was a short assured tenancy as defined by section 32 of the Housing (Scotland) Act 1988.
- 8 On 14<sup>th</sup> December 2018 the Respondents were served with a Notice to Quit terminating the tenancy as at 13 February 2019 and Notice intimating that the Landlord required possession of the house. Both Notices were served by Recorded Delivery Mail.
- 9 The tenancy has reached its end as at 13<sup>th</sup> February 2019. Tacit relocation is not operating. There is no further contractual tenancy in existence.

### **Reasons for Decision**

- 10 In this case the Applicant seeks an order for repossession of a short assured tenancy under section 33 of the Housing (Scotland) Act 1988
- 11 Section 33(1) of the Housing (Scotland) Act 1988 provides as follows:-

*“(1) Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, the First-tier Tribunal shall make an order for possession of the house if the Tribunal is satisfied—*

- (a) That the short assured tenancy has reached its finish;*
- (b) That tacit relocation is not operating;*
- (c) .....and*
- (d) That the landlord (or where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house.”*

12 The Tribunal was satisfied that a valid Notice to Quit had been properly served on the Respondents which terminated the contractual tenancy between the parties as at 13<sup>th</sup> February 2019. Accordingly tacit relocation was not operating. The Respondents had also been given notice that the Applicant required possession of the Property.

13 It was therefore clear from the documentation before the Tribunal that the provisions of section 33 had been met. The Respondents had not sought to dispute the terms of the application. Accordingly there being no dispute regarding the relevant facts of the case, the Tribunal considered that it was able to make sufficient findings to determine the case without a hearing and that to do so would not be prejudicial to the interests of the parties.

14 The Tribunal therefore determined to make an order for repossession under section 33 of the Housing (Scotland) Act 1988.

## **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.**

R O'Hare

---

**Legal Member/Chair**

**Date**

**1<sup>st</sup> July 2019**