



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/EV/18/1470

**Re: Property at 10/9 Western Harbour Breakwater, Edinburgh, EH6 6PZ (“the
Property”)**

Parties:

**Ms Rebecca McConnell, C/O Capital Lettings Ltd, 25 Leven Street, Edinburgh,
EH3 9LH (“the Applicant”)**

**Ms Sandrine Nkulikikiyimawa, Ms Evelyne Muvanyi, 10/9 Western Harbour
Breakwater, Edinburgh, EH6 6PZ (“the Respondent”)**

Tribunal Members:

Fiona Watson (Legal Member)

Decision

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

- Background

An application was made by the Applicant under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, dated 13 June 2018. The Applicant sought an order for repossession upon termination of a short assured tenancy.

- The Case Management Discussion

A Case Management Discussion took place on 31 August 2018. The Applicant was represented by Mr Andrew McDonald of Davidson Chalmers, solicitors. The Respondents were both personally present.

Mr McDonald, on behalf of the Applicant, moved the Tribunal to grant the order for repossession as sought. He submitted that the tenancy was a Short Assured Tenancy and that the relevant notice to quit and notice in terms of section 33 of the

Housing (Scotland) Act 1988 had been served as required. He submitted that the order sought must be granted under the circumstances.

The Respondents submitted that they wished more time to secure alternative accommodation. They had asked the landlord's agents previously for further time but this request had not been replied to. They had continued to pay rent whilst they continued to live in the property.

Mr McDonald submitted that he had no instructions to agree a further extension to the lease and that his instructions were to seek the repossession order as sought.

- Findings in Fact

1. The parties entered into a Short Assured Tenancy which commenced on 7 June 2013.
2. The Applicant had issued a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 on the Respondents by recorded delivery post. Said notices were signed for at the Property on 30 March 2018.
3. The Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 required the Respondents to remove from the Property on or before 7 June 2018.
4. The Respondents continue to reside in the Property.

- Reasons for Decision

The Tribunal was satisfied that the terms of the section 33 of the Housing (Scotland) Act 1988 had been complied with, in that the tenancy had reached its end, that tacit relocation was not in operation, that no further contractual tenancy was in existence and that a notice in terms of section 33 of the said Act had been served. Accordingly, the Tribunal was satisfied that the Applicant was entitled to the order for repossession as sought.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for possession of the Property 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.

Fiona Watson

Legal Member/Chair

31/8/18.
Date