

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**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/19/1625**

**Re: Property at 86 Middlebank Street, Rosyth, Fife, KY11 2NJ (“the Property”)**

**Parties:**

**Mr Anthony Wreford Bennell and Mrs Christine Margaret Bennell, both 13A South Dewar Street, Dunfermline, Fife, KY12 8AR (“the Applicant”)**

**Miss Nicola O’Neil, 86 Middlebank Street, Rosyth, Fife, KY11 2NJ (“the Respondent”)**

**Tribunal Member:**

**George Clark (Legal Member)**

**Decision (in absence of the Respondent)**

**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 by the Tribunal on 29 May 2019, the Applicant sought an Order for Possession of the Property 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, from 12 November 2008 to 12 November 2009 and, if not terminated on that date, continuing on a month to month basis until terminated by either Party giving two months’ written notice to the other, a Notice to Quit and Notice given under Section 33 of the 1988 Act, both Notices being dated 11 February 2019, requiring the Respondent to vacate the Property by 12 April 2019 and evidence of both having been served by sheriff officer on 12 February 2019.

On 16 July 2019, the Tribunal advised both parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 3 August 2019. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at Fife Voluntary Action, 16 East Fergus Place, Kirkcaldy on the morning of 22 August 2019. The Applicant was represented by Mr Russel McPhate of Morgans solicitors, Dunfermline. The Respondent was not present or represented. The Applicant's representative asked the Tribunal to make an Order for Possession of the Property without a hearing.

### **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 must make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured 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 to the tenant notice stating that he requires possession of the house.

The Tribunal was satisfied 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 Applicant had given to the Respondent the Notice required under Section 33 of the 1988 Act. The requirements of Section 33 had, therefore, been met and 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

22 August 2019  
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Date