



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 and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/24/5066

Re: Property at 14 Fruithill, Forfar, DD8 1JT (“the Property”)

Parties:

Byars Lowson Real Estate Pty Ltd, Parklea, 18 St James Road, Forfar, DD8 1LG (“the Applicant”)

Ms Claire Jones residing at 14 Fruithill, Forfar, and Mr Mark Dean residing at 11 Kemsley Place, Forfar, DD8 1HD (“the Respondents”)

Tribunal Members:

Andrew Cowan (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of Ms Claire Jones – the First Named Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be dismissed.

Background

1. By application dated 4th November 2024, the Applicant sought an order for eviction under section 33 of the Housing (Scotland) Act 1988 (“the Act”) and in terms of rule 66 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 23rd January 2025 the application was accepted by the tribunal and referred for determination by this Tribunal.

3. A Case Management Discussion was arranged to take place on 7th July 2025, and appropriate intimation of that hearing was given to both parties.

The Case Management Discussion

4. The Case Management Discussion (CMD) took place on 7th July 2025 by telephone conference call. The Applicant was represented by Mrs Laura Weir of Direct Lettings (Scotland) Limited.
5. Mr Mark Dean (the second named Respondent) also joined the conference call.
6. Ms Claire Jones (the first Named Respondent) did not join the conference call
7. This application was considered along with an action for payment of alleged rent arrears (Tribunal Reference FTS/HPC/CV/24/5256). A separate decision has been issued in relation to that application.
8. The Applicant's representative confirmed that the Applicant continues to seek an order for eviction.
9. The Tenancy between the parties is a short assured tenancy in terms of the Act.
10. On 12th August 2024, the Applicant had served upon the Respondents a notice to quit and a notice in terms of section 33 (1) (d) of the Act.
11. At the CMD the Tribunal noted that the ish of the tenancy between the parties was 28th March 2017 and every six months thereafter.
12. The Notice to Quit which had been served upon the Respondents gave notice for them to quit the Property by 28th October 2024.

13. 28th October 2024 is not an ish of the tenancy between the parties. The Notice to Quit which had been served upon the Respondents was therefore not valid. This was accepted by the Applicant's representative.
14. As no valid notice to quit had been served upon the Respondents the Tribunal cannot be satisfied that tacit relocation of the tenancy agreement is not operating, as required by Section 33 of the Act.
15. The Applicant's representative accepted that the application fell to be dismissed where there was no valid Notice to Quit served upon the parties.
16. In the circumstances the Tribunal could not consider the application further and the application was accordingly dismissed.

Decision

17. The Tribunal accordingly dismiss the action. The decision of the Tribunal is unanimous.

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.

A Cowan

7th July 2025

Legal Member/Chair

Date