

**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/19/1368

**Re: Property at 23 Hunters Lane, Whitburn, West Lothian, EH47 0DT (“the
Property”)**

Parties:

**JPK Bros Limited, 48 Thomson Road, Armadale, West Lothian, EH48 3GJ (“the
Applicant”)**

**Mr Alan Robertson, 23 Hunters Lane, Whitburn, West Lothian, EH47 0DT (“the
Respondent”)**

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant was entitled to an order for
possession of the property and the ejection of the Respondent from the
property.**

Background

1. By application dated 7 May 2019 the Applicant applied to the Tribunal for an order for possession of the property and the ejection of the Respondent. The Applicant provided the Tribunal with a copy of the Short assured Tenancy agreement, Notice to Quit, Section 33 notice, Sheriff Officers Execution of Service and Section 11 Notice.
2. By Notice of acceptance dated 20 May 2019 a legal member of the Tribunal accepted the application and a Case Management Discussion was assigned.
3. Intimation of the Case management Discussion was given to the applicant's representatives by post on 31 May 2019 and to the Respondent by Sheriff Officers on 3 June 2019.

The Case Management Discussion

4. The Case Management Discussion was held at Riverside house on 1 July 2019. It was attended by Mrs Isla Casey of Lothian Homes 4 Let , Edinburgh on behalf of the applicant. The Respondent did not attend nor was he represented. The tribunal was satisfied that the Respondent had been given proper notice of the Case Management discussion and determined to proceed in his absence in accordance with Rule 29 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations").
5. Mrs Casey advised the Tribunal that the Respondent was still living in the property. This had been confirmed to her by a colleague today. Mrs Casey went on to say that when she had last spoken to the Respondent he had indicated he was waiting for the order to be granted so that he would be rehoused by the Council. She was not aware of his current circumstances. Her last contact with him had been about two months ago.
6. Mrs Casey confirmed to the Tribunal that the parties had entered into a Short Assured Tenancy that had commenced on 5 March 2015 and had endured for six months until 5 September 2015 and then continued thereafter on a month to month basis. She said that Sheriff Officers had served a Notice to Quit and Section 33 Notice on the Respondent on 1 March 2019 and referred the Tribunal to the documents lodged with the application. The Notice to Quit and Section 33 Notice gave the Respondent until 5 May 2019 to vacate the property and this complied with the statutory period.
7. Mrs Casey confirmed that the Section 11 Notice had been sent by email to West Lothian Council in advance of raising the proceedings and a copy had been provided with the application. As all the documentation was in order and the Respondent remained in occupation the order should be granted.

Findings in Fact

8. The parties entered into a Short Assured Tenancy that commenced on 5 March 2015 for a period of 6 months and continued thereafter on a month to month basis.
9. Sheriff Officers served a Notice to Quit and Section 33 Notice on the respondent on 1 March 2019 giving the Respondent until 5 May 2019 to vacate the property.
10. The Respondent has continued to occupy the property.
11. The Applicant's representatives sent a Section 11 Notice to West Lothian Council prior to making their application to the Tribunal.

Reasons for Decision

12. The Tribunal was satisfied that the parties had entered into a short assured Tenancy Agreement. The respondent had been provided with a Form AT5 prior to the commencement of the Tenancy. Following the initial term of six months the tenancy had continued on a month to month basis as provided for in the agreement. In terms of the tenancy agreement either party could bring the tenancy to an end on giving the other party two months' notice.
13. The Tribunal was satisfied that the Notice to Quit and Section 33 Notice served on the Respondent by Sheriff Officers on 1 March 2019 were in proper form and gave the Respondent proper notice. West Lothian Council had been given intimation of the proceedings.
14. The Tribunal was satisfied that the Applicant had fully complied with the terms of Section 33 of the Housing (Scotland) Act 1988 and that accordingly the Tribunal was obliged to grant the order sought.

Decision

The Tribunal finds the Applicant entitled to an order for possession of the property and the ejection of the Respondent from the property.

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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.

G Harding

1 July 2019
Date

~~*Insert or Delete as required~~