**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/19/1555**

**Re: Property at 4 Malcolms Court, Kilmaurs, East Ayrshire, KA3 2BE ("the Property")**

**Parties:**

**Mr Peter McGivney, C/O Murphy Scoular, 22/24 John Finnie Street, Kilmarnock, KA1 1DD ("the Applicant")**

**Mr Robert Spence, 4 Malcolms Court, Kilmaurs, East Ayrshire, KA3 2BE ("the Respondent")**

**Tribunal Members:**

**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 22 May 2019, the Applicant sought an Order for Possession under Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act"). The application was accompanied by copies of a Short Assured Tenancy Agreement, commencing on 12 January 2017, for a period of 6 months and, if not terminated on 12 July 2017, continuing on a month to month basis until terminated by two months' notice given by either Party to the other; an AT5 Notice dated 12 January 2017; a Notice to Quit and Notice given under Section 33 of the 1988 Act, both dated 8 March 2019, requiring the Respondent to vacate the Property by 12 May 2019 and proof of service of both Notices by sheriff officer on 9 March 2019.
By letter dated 27 June 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 15 July 2019. The Respondent did not make any written representations to the Tribunal.

## Case Management Discussion

A Case Management Discussion took place at Russell House, King Street, Ayr on the morning of 31 July 2019. The Applicant was represented by Mr Brian Murphy and Mrs Laurie Weir of Murphy Scoular solicitors, Kilmarnock. The Respondent was not present or represented. The Applicant's representatives asked the Tribunal to make the order 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 the tenancy has reached its ish, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence and the landlord has given to the tenant notice stating that he requires possession of the house.

The Tribunal was satisfied that the tenancy had reached its ish 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 served the Notice required by Section 33 of the 1988 Act. Accordingly, all the requirements of Section 33 had been met and the Tribunal was bound to make an Order for Possession of the Property.

## 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                    31st July 2019

Legal Member/Chair              Date