



**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/19/1645**

**Re: Property at 1 Plumber Court, Dalkeith, Midlothian, EH22 1EX (“the  
Property”)**

**Parties:**

**Ms Katrina Snow, c/o 2/5 Drumsheugh Gardens, Edinburgh, EH3 7QJ (“the  
Applicant”)**

**Mr John Wightman, 1 Plumber Court, Dalkeith, Midlothian, EH22 1EX (“the  
Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member)**

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

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for repossession of the Property under Section 33 of the Housing (Scotland) Act 1988 be granted. **The order will be issued to the Applicant after expiry of 30 days mentioned below in the right to appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.**

The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

**Background**

1. By application dated 29 May 2019 the Applicant’s representative Ms Shanley from Shanley Lettings Limited applied to the Tribunal for an order for

repossession of the Property under Section 33 of the Housing(Scotland) Act 1988.

2. The application was accompanied by a Short Assured Tenancy signed and dated 16 March 2017, an AT5 also signed and dated 16 March 2017, a Notice to Quit and Section 33 Notice requiring possession of the Property from 24 May 2019, an execution of service from Scott and Company, Sheriff Officers dated 26 February 2019 and a Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to Midlothian Council dated 29 May 2019.
3. On 27 June 2019 the Tribunal accepted the application.
4. On 11 July 2019 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 29 July 2019. The Tribunal advised both parties that a Case Management Discussion under Rule 17 of the First –tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017(“the Regulations”) would proceed on 20 August 2019. This paperwork was served on the Respondent by Douglas Llewellyn, Sheriff Officer, Dunbar on 11 July 2019 and the certificate of service was received by the Tribunal administration.
5. The Respondent did not make any representations by 29 July 2019.

### **Case Management Discussion**

6. The Tribunal proceeded to a Case Management Discussion on 20 August 2019. The Applicant was represented by Ms Shanley of Shanley Lettings. There was no appearance by or on behalf of the Respondent.
7. The Tribunal had before it the Short Assured Tenancy signed and dated 16 March 2017, an AT5 also signed and dated 16 March 2017, a Notice to Quit and Section 33 Notice requiring possession of the Property from 24 May 2019, an execution of service from Scott and Company, Sheriff Officers dated 26 February 2019 and a Notice under Section 11 of the Homelessness etc.(Scotland) Act 2003 addressed Midlothian Council dated 29 May 2019. The Tribunal also had a copy of the Land Certificate under Title MID15825 which showed the applicant was the heritable proprietor of 1 Plummer Court, Dalkeith.
8. The Tribunal noted that the Property address in the Application was 1 Plummer Court, Dalkeith and that the Section 33 Notice and the Notice to Quit together with the Sheriff Officers Executions both in relation to service of these notices and in relation to service of the application on the Respondent also referred to 1 Plummer Court, Dalkeith. However, the Short Assured Tenancy Agreement as signed stated the address was 1 Plummer Court, Dalkeith, as did the title to the Property.
9. Ms Shanley explained that she had checked the correct spelling of the Property address and was satisfied it was 1 Plummer Court, Dalkeith. She had

carried out checks against the Energy Performance Certificate and Landlord Registration and the address was 1 Plumber Court and not 1 Plummer Court.

10. She asked the Tribunal to grant an order for repossession of the Property in all the circumstances. Her client was intending to move back to the Property. The Respondent was still living in the Property.

### **Findings in Fact**

11. The Applicant is the heritable proprietor of the Property.
12. The Applicant let the Property to the Respondent under a Short Assured Tenancy dated 16 March 2017 with a start date of 24 March 2017 until 24 September 2017. The tenancy thereafter continued on a monthly basis. The Respondent is the tenant of the Property.
13. On 26 February 2019 by way of Sheriff Officers the Applicant served a Notice to Quit terminating the tenancy of 24 May 2019.
14. On 26 February 2019 by way of Sheriff Officers the Applicant served a Notice in terms of Section 33 of the Housing (Scotland) Act 1988 indicating to the Respondent that she required repossession of the Property on 24 May 2019.
15. There is no contractual tenancy in existence between the parties
16. The Respondent continues to reside in the Property having failed to vacate on 24 May 2019.

### **Reasons for Decision**

17. The Tribunal considered the documents before it and the submissions made by Ms Shanley. The Tribunal was satisfied the tenancy was a properly constituted Short Assured Tenancy. It was also satisfied that
  - I. The Short Assured Tenancy had reached its end (termination date) on 24 May 2019
  - II. The contractual tenancy was not continuing as the Notice to Quit had been validly served on 26 February 2019 which brought the contractual Short Assured Tenancy to an end on 24 May 2019;
  - III. No further contractual tenancy was in existence; and
  - IV. The Applicant had given the Respondent at least 2 months' notice in terms of Section 33 (1) (d) of the Housing (Scotland) Act 1988 on 26 February 2019 stating that repossession was required on 24 May 2019.
18. In terms of Section 33 of the Housing (Scotland) Act 1988 the Tribunal shall make an order for possession where it is satisfied that the statutory terms have been met. On the basis of the documents before it and on the basis of

