

**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/19/2563**

**Re: Property at 18 Livingston Drive, Airdrie, ML6 7LR (“the Property”)**

**Parties:**

**Mr Stewart Hale, c/o Ladywell Business Centre, 94 Duke Street, Glasgow, G4 0UW (“the Applicant”)**

**Miss Kirsty Leitch, 18 Livingston Drive, Airdrie, ML6 7LR (“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 14 August 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 commencing on 12 September 2011 for a period of six months and, if not terminated at that date, continuing thereafter on a monthly basis until terminated by either party giving no less than two months’ written notice to the other party, a Form AT5 Notice dated 12 September 2011, a Notice to Quit and a Notice given under Section 33 of the 1988 Act, both Notices being dated 23 April 2019 and both requiring the Respondent to vacate the Property by 12 July 2019, with proof of service of both Notices on the Respondent by sheriff officer on 30 April 2019.

On 25 September 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 16 October 2019. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow on the afternoon of 30 October 2019. The Applicant was represented by Smart Move Estate Agents (Scotland) Limited. The Respondent was not present or represented. The Applicant's representative asked the Tribunal to grant the application and 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 provides that the Tribunal shall make an Order for Possession of a house let under 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 the Notice required under Section 33 of the 1988 Act. Accordingly, 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**

Legal Member/Chair

30 October 2019

Date