



**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/18/2997**

**Re: Property at 183A Hamilton Road, Motherwell, ML1 3DR (“the Property”)**

**Parties:**

**Mrs Karen McGuinness, 19 Lyman Drive, Wishaw, ML2 1PN (“the Applicant”)**

**Mr Steven McFarlane, 183A Hamilton Road, Motherwell, ML1 3DR (“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 to grant the application without a hearing and to make  
an Order for Possession of the Property.**

**Background**

By application, received by the Tribunal on 6 November 2018, 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 a copy Short Assured Tenancy Agreement commencing on 16 November 2016 and ending on 16 May 2017 and, if not ended on that date, continuing on a month to month basis until terminated by either party giving two months’ written notice to the other.

The application was also accompanied by copies of a Notice to Quit and Notice under Section 33 of the 1988 Act, both dated 3 August 2018, requiring the Respondent to remove from the Property by 16 October 2018 and by proof of service by sheriff officer.

The Tribunal, by letter dated 13 December 2018, advised the Parties of the date, place and venue for a Case Management Discussion and the Respondent was invited to make written representations by 31 December 2018. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at Glasgow Tribunals Centre on the afternoon of 11 January 2018. The Applicant was present and was represented by Mr James Moore of Moore MacDonald, solicitors, Motherwell. The Respondent was neither present nor represented at the Case Management Discussion. The Applicant's solicitor asked the Tribunal to grant the application without a hearing.

### **Reasons for Decision**

Section 33 of the 1988 Act provides that the Tribunal shall make an Order for Possession if 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 had seen evidence that the Short Assured Tenancy had reached its end and was satisfied, from the Notice to Quit, that tacit relocation was not operating, that the relevant notice had been given under Section 33 of the 1988 Act and that no further contractual tenancy was for the time being in existence. Accordingly, the requirements of Section 33 of the 1988 Act had been met.

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 to make a decision without a hearing.

The Tribunal decided that, as the requirements of Section 33 of the 1988 Act had been met, the application for an Order for Possession must be granted.

### **Decision**

The Tribunal determined to grant the application without a hearing and to make 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

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**Legal Member/Chair**

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**Date**

11 January 2019