

**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/18/3033**

**Re: Property at 4/11 Essendean Terrace, Edinburgh, EH4 7HD (“the Property”)**

**Parties:**

**Mr Rhodrick Grubb, 120 Glasgow Road, Edinburgh, EH28 8PR (“the Applicant”)**

**Miss Kerry Beaton, 4/11 Essendean Terrace, Edinburgh, EH4 7HD (“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 9 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 of a Short Assured Tenancy Agreement, commencing on 6 January 2017 and, if not ended by either Party on 7 July 2017, continuing on a monthly basis until terminated by the tenant giving 60 days’ notice or the landlord giving two months’ written notice. The application was also accompanied by copies of a Form AT5 Notice dated 6 January 2017, a Notice to Quit and a Notice given under Section 33 of the 1988 Act, both dated 31 August 2018 and both requiring the Respondent to vacate the Property by 7 November 2018, with proof of service of the Notice to Quit and Section 33 Notice by sheriff officer on 5 September 2018.

On 22 January 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 to the Tribunal by 8 February 2019. The Respondent made no written representations.

### **The Case Management Discussion**

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the morning of 13 February 2019. The Applicant was not present, but was represented by Graham Little, Property Manager of Pure Property Management Edinburgh Limited. The Respondent was not present or represented.

The Applicant's representative asked the Tribunal to make the Order without a hearing. He also advised the Tribunal that the Respondent had vacated the Property on 30 January 2019.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 states 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 decide the application without a hearing.

Section 3 of the 1988 Act provides that the Tribunal shall make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the 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 that he requires possession of the house.

The Tribunal was satisfied from its terms that the tenancy had reached its end, that, as a result of service of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy for the time being in existence and that the Notice required by Section 33 of the 1988 Act had been given. Accordingly, all the requirements of Section 33 of the 1988 Act had been met and the Tribunal was bound to make the Order for Possession.

### **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.**

Mr George Clark

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Legal Member/Chair

13 February 2019

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Date