



**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/18/1516**

**Re: Property at Flat 6, 6 Rosebank Mews, Dundee, DD3 6PS (“the Property”)**

**Parties:**

**Mr Djoni Huang, 359A Goodlink Park, Sembawang Road, Sembawang, 758377,  
Singapore (“the Applicant”)**

**Burnside Properties (Dundee) Ltd, c/o 50 Dudhope Crescent Road, Dundee,  
DD1 5RR (“the Applicant’s Representative”)**

**Mr Michal Greljak, Flat 6, 6 Rosebank Mews, Dundee, DD3 6PS (“the  
Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined to make an order for repossession against the  
Respondent**

**Background**

- 1 By application dated 19 June 2018 the Applicant sought an order for recovery of possession of the property under section 33 of the Housing (Scotland) Act 1988. In support of the application, the Applicant submitted Tenancy Agreement dated 14 June 2009, Notice to Quit and Notice under section 33(1)(d) of the Housing (Scotland) Act 1988 dated 20 December together with proof of delivery.
- 2 By Notice of Acceptance of Application dated 23 July 2018, the Legal Member with delegated powers of the Chamber President intimated that there were no

grounds for rejection of the application. A Case Management Discussion was therefore assigned for 20 September 2018.

- 3 A copy of the application together with supporting documentation and notification of the Case Management Discussion was served on the Respondent by Sheriff Officers on 3<sup>rd</sup> September 2018.

### **The Case Management Discussion**

- 4 The Case Management Discussion took place on 20 September 2018 at Dundee Carers Centre. Carla Ritchie and Liz McGrath attended on behalf of the Applicant's Representative. The Respondent did not attend.
- 5 Ms Ritchie explained that the Landlord sought an order under section 33 of the Housing (Scotland) Act 1988 which was a mandatory ground for repossession. The relevant notices had been served on the Respondent which had brought the tenancy to an end.

### **Findings in Fact**

- 6 The Applicant and the Respondent entered into a Tenancy Agreement dated 14 June 2009 in respect of the Property.
- 7 The initial term of the tenancy was six months. Thereafter the tenancy continued on a month to month basis as provided for in Clause 1.4 of the said Tenancy Agreement.
- 8 The tenancy was a short assured tenancy as defined by section 32 of the Housing (Scotland) Act 1988.
- 9 On 20 December 2017 the Respondent was served with a Notice to Quit terminating the tenancy as at 14 March 2018 together with Notice intimating that the Landlord required possession of the house. Both Notices were served by recorded delivery mail.
- 10 The tenancy has reached its end as at 14 March 2018. Tacit relocation is not operating.

### **Reasons for Decision**

- 11 In this case the Applicant seeks an order for repossession of a short assured tenancy under section 33 of the Housing (Scotland) Act 1988
- 12 Section 33(1) of the Housing (Scotland) Act 1988 provides as follows:-

*“(1) Without prejudice to any right of the landlord under a short assured tenancy to recover possession of the house let on the tenancy in accordance with sections 12 to 31 of this Act, the First-tier Tribunal shall make an order for possession of the house if the Tribunal is satisfied—*

- (a) That the short assured tenancy has reached its finish;*
- (b) That tacit relocation is not operating;*
- (c) .....and*
- (d) That the landlord (or where there are joint landlords, any of them) has given to the tenant notice stating that he requires possession of the house.”*

13 Having regard to the documentation produced by the Applicant the Tribunal was satisfied that a valid Notice to Quit had been properly served on the Respondent which terminated the contractual tenancy between the parties as at 14 March 2018. Accordingly tacit relocation was not operating and the Respondent had been given notice that the Applicant required possession of the Property. The Respondent had not sought to dispute any of the relevant facts of the case nor the documentation provided by the Applicant. Accordingly the Tribunal considered that it was able to make sufficient findings at the Case Management Discussion to determine the case without a hearing and that to do so would not be prejudicial to the interests of the parties.

14 The Tribunal therefore concluded that the provisions of section 33 had been met and determined to make an order for repossession.

### **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.**

Ruth O'Hare

— 20 September 2018

Legal Member/Chair

Date