



**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/18/1816

Re: Property at 22 Flat G/1 Park Avenue, Dundee, DD4 6LU (“the Property”)

Parties:

Northern Housing Company Limited, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)

Mr Michael Stewart, 22 Flat G/1 Park Avenue, Dundee, DD4 6LU (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order should be granted against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

- **Background**

An application was submitted by the Applicant under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The application sought an order for repossession of the property, against the Respondent.

- **The Case Management Discussion**

A Case Management Discussion took place on 25 September 2018. Mr Neil Mathieson of TC Young Solicitors appeared on behalf of the Applicant. There was no appearance by or on behalf of the Respondent.

Mr Mathieson advised the Tribunal that the Respondent was believed still to be residing in the property. There had been no contact from the Respondent since the application was raised.

Mr Mathieson advised that a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 had been served on the Respondent, requiring him to remove from the property on or before 4 June 2018. He had failed to do so and accordingly an Order for Repossession was required.

Mr Mathieson also advised that separately, arrears of rent due under the tenancy agreement as at the date of the Case Management Discussion stood at the sum of £3554.74. A separate application under Rule 70 of the said Regulations had been submitted by the Applicant in this regard.

- Findings in Fact

1. The parties entered into a short assured tenancy agreement which commenced 3 April 2017. Said tenancy is still ongoing at the date of the Case Management Discussion.
2. The tenancy agreement is a Short Assured Tenancy in terms of section 32 of the said 1988 Act.
3. A Notice to Quit and Notice in terms of section 33 of the said 1988 Act had been served on the Respondent by Sheriff Officer on 14 March 2018. Said Notices required the Respondent to remove on or before 4 June 2018

- Reasons for Decision

The Tribunal was satisfied that the terms of section 33 of the said 1988 Act had been complied with by the Applicant. The short assured tenancy had reached its' ish; tacit relocation was not in operation; no further contractual tenancy was in existence and a notice had been served on the Respondent stating that the Applicant required possession of the house. Accordingly, the Applicant is entitled to the order for repossession as sought, on that basis.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988

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.

Fiona Watson

Legal Member/Chair

Date

25/9/18