

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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 (Act)**

**Chamber Ref: FTS/HPC/EV/18/0885**

**Re: Property at 35 Philip Avenue, Bathgate, West Lothian, EH48 1LP (“the Property”)**

**Parties:**

**Mr Robert Gillies, 7/42 Murieston Road, Edinburgh, EH11 2JJ (“the Applicant”)**

**Mr Baniamin Swiatek, 35 Philip Avenue, Bathgate, West Lothian, EH48 1LP (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.**

**Background**

This is an application under Rule 66 of the Procedure Rules for eviction and recovery of possession upon termination of a short assured tenancy.

The following documents were lodged:

1. Tenancy Agreement dated 1 September 2017;
2. AT5 dated 1 September 2017;
3. Notice to Quit dated 20 December 2017;
4. Section 33 Notice dated 20 December 2017;
5. Royal Mail tracking receipts dated 20 and 22 December 2017; and
6. Section 11 Notice to West Lothian Council.

Alan Strain

**Case Management Discussion (CMD)**

The case called for a CMD at which both parties were present. The Respondent advised that he had received service of all the paperwork in advance of the CMD. He stated that he wished to stay in the Property and was applying for benefit to enable him to pay the rent. When asked if he had any defence to the application it was evident that he did not.

The Applicant's position was clear. He wished the eviction order granted.

The Respondent did not contest the validity of the short assured tenancy or any of the documents.

The Tribunal so far as material made the following findings in fact:

1. A Short Assured Tenancy was in place between the parties;
2. A Notice to Quit and Section 33 Notice had been validly served on The Respondent;
3. The terms of Section 33 have been complied with; and
4. The Respondent has failed to remove from the property by 1 March 2018.

The Tribunal accordingly had no discretion other than to grant the order sought.

### **Decision**

The order for eviction and recovery of possession is granted.

### **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.**

Alan Strain

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**Legal Member/Chair**

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**Date**

18 JAN 2018