

**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 and Section 16 of the Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/EV/18/1544**

**Re: Property at 5 Plough Court, Cambuslang, Glasgow, G72 6ZL (“the Property”)**

**Parties:**

**Mr Robert Aitkenhead, Mrs Elizabeth Aitkenhead, c/o KPM Residential Limited, 23 Park Circus, Glasgow, G3 6AP (“the Applicant”)**

**Ghulam Abbas Chana and Mrs Shamsa Kanwal, both 5 Plough Court, Cambuslang, Glasgow G72 6ZL (“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 decided without a hearing and that the application should be granted and an Order for possession made in terms of Section 33 of the Housing (Scotland) Act 1988**

**Background**

By application, received by the Tribunal on 20 June 2018, the Applicant sought an Order for possession of the Property.

The application was accompanied by a copy of a Short Assured Tenancy agreement in respect of the Property, the tenancy being for a period of 12 months, commencing on 8 August 2016 and, if not brought to an end by either party on the end date, continuing on a monthly basis until terminated by either party giving one month’s notice.

The application was also accompanied by a copy of the AT5 Notice, dated 8 June 2016, given to the Respondent prior to the creation of the tenancy and by copies of a Notice to Quit and of a Notice given under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”), both Notices being dated 13 March 2018, requiring the Respondent to remove from the Property by 8 June 2018.

By letter dated 22 August 2018, the Parties were advised that the Tribunal would hold a Case Management Discussion on 10 September 2018 and the Respondent

was invited to make written representations in response to the application by 6 August 2018. The Respondent did not make any written representation to the Tribunal, but on 28 August 2018, the Respondent requested a postponement, on health grounds, of the Case Management Discussion and this was granted by the Tribunal. A new date for a Case Management Discussion was set for 26 October 2018 and this was intimated to the Parties on 9 October 2018.

On 12 October 2018, the Respondent requested a further postponement of the Case Management Discussion "for a few months", again on health grounds. This request was refused by the Tribunal.

### **Case Management Discussion**

The Case Management Discussion was held at Glasgow Tribunals Centre on the afternoon of 26 October 2018. The Applicant was represented by Chris Hogg, of KPM Residential Limited, 23 Park Circus, Glasgow G3 6AP. The Respondent was not present or represented at the Case Management Discussion.

The Applicant's representative asked the Tribunal to exercise its right to make a decision on the application without a hearing and to make the Order for possession sought in the application.

### **Reasons for Decision**

Rule 17(4) of the Schedule to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that "The First-tier 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 that it required in order to make a decision and that, as the Respondent had not made any written representations and as not present or represented, it was able to decide the application without a hearing.

Having seen copies of the Form AT5, a valid Notice to Quit and the Notice given under Section 33 of the 1988 Act, the Tribunal was satisfied that the tenancy was a Short Assured Tenancy, that it had reached its end, that tacit relocation was not operating, that no further contractual tenancy was operating and that the Applicant had given to the Respondent notice stating that the Applicant required possession of the Property. Accordingly, the Tribunal held that the requirements of Section 33 of the 1988 Act had been met and that the Tribunal was required to grant the application 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.**

G Clark

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Legal Member/Chair

26 October 2018

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Date