



**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/19/1966**

**Re: Property at Manderston Mill, Manderston, Duns, TD11 3PP (“the Property”)**

**Parties:**

**Lord Adrian Baillie Nottage Palmer, Manderston, Duns, Berwickshire, TD11  
3PP (“the Applicant”)**

**Mr John Atkinson, Manderston Mill, Manderston, Duns, TD11 3PP (“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 is granted against the Respondent for  
possession of the Property under section 33 of the Housing (Scotland) Act  
1988.**

- **Background**
  1. An application dated 25 June 2019 was submitted to the Tribunal under Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a repossession order against the Respondent upon termination of a short assured tenancy agreement.
- **The Case Management Discussion**
  2. A Case Management Discussion (“CMD”) took place on 29 August 2019. The Applicant was represented by Francesca Allanson of Anderson Strathern. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent personally by Sheriff Officer on 18 July 2019. The Tribunal was accordingly satisfied that the Respondent had

been duly notified of the date and time of the CMD and that the CMD could proceed in the Respondent's absence.

3. The Applicant moved for the order for repossession to be granted as sought. The parties had entered into a Short Assured Tenancy Agreement. The Applicant had served a Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act") on the Respondent. The Respondent had failed to remove from the Property and continued to reside therein. The Applicant required repossession of the Property.

- Findings in Fact

4. The Tribunal made the following findings in fact:

- (a) The parties entered into a Short Assured Tenancy Agreement ("the Agreement") which commenced 1 April 2014. The Agreement stated that the lease will endure for a period of 6 months from 1 April 2014 until 1 October 2014 and from month to month thereafter until terminated upon either one calendar month's notice being given by the Tenant or two calendar month's notice by the Landlord;
- (b) A Notice to Quit and notice under section 33 of the 1988 Act were served on the Respondent on 24 January 2019 by Sheriff Officer service;
- (c) The Notice to Quit and notice under section 33 of the 1988 Act required the Respondent to remove from the Property by 1 April 2019;
- (d) The Respondent had failed to remove from the Property and continued to reside therein.

- Reasons for Decision

5. The Tribunal was satisfied that the terms of section 33 of the 1988 Act had been met: namely that the tenancy had reached its end; tacit relocation was not operating; a notice had been served in terms of that section giving at least 2 months' notice; and no further contractual tenancy was in existence. Accordingly, the Applicant was entitled to the Order for Repossession as sought.

- Decision

6. 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.



\_\_\_\_\_  
Legal Member/Chair

29/8/19

\_\_\_\_\_  
Date