

**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 Housing (Scotland) Act 1988 ("the 1988 Act")**

**Chamber Ref: FTS/HPC/EV/18/2021**

**Re: Property at 3/1, 91 Grovepark Street, Glasgow, G20 7NZ ("the Property")**

**Parties:**

**Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL ("the Applicant")**

**Mr Brian Shonna, 3/1, 91 Grovepark Street, Glasgow, G20 7NZ ("the Respondent")**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for possession of the property should be granted in favour of the Applicant.**

**Background**

1. An application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations") was received on 7 August 2017. The Applicant seeks an order for possession of the property in terms of section 33 of the 1988 Act. An application for payment of rent arrears under tribunal reference FTS/HPC/CV/18/2022 was lodged with the application.
2. The following documents were lodged with the application;- copy tenancy agreement, copy AT5 Notice, copy Notice to Quit and Section 33 Notice together with Sheriff Officer certificate of service, copy AT6 and copy Notice to Glasgow City Council in terms of Section 11 of the Homelessness etc (Scotland) Act 2003

3. A copy of the application and supporting documentation and a letter notifying the Respondent of the case management discussion ("CMD") scheduled for 27 September 2018 at 11.30 am were served on the Respondent by Sheriff Officer on 7 September 2018.
4. Both cases called before the Legal Member of the Tribunal for a CMD on 27 September 2018 at 11.30am. The Applicant was represented by Mr David Adams, solicitor. There was no appearance by or on behalf of the Respondent. No written representations were received from the Respondent in advance of the CMD.

### **Case Management Discussion**

5. Mr Adams advised the Legal Member that he was seeking an order for possession of the property in terms of Section 33 of the 1988 Act. He advised that the Applicant has had no recent contact with the Respondent and that the Respondent remains in occupation of the property.
6. The Legal Member proceeded to consider the application.

### **Findings in Fact**

7. The Applicant is the owner of the property.
8. By agreement dated 12 December 2012 the parties entered into a short assured tenancy agreement in relation to the property for an initial term of 6 months and monthly thereafter until terminated. An AT5 Notice in the correct format was issued prior to signature of the tenancy agreement.
9. A valid Notice to Quit containing the prescribed information and valid Section 33 Notice in terms of the 1988 Act were served on the Respondent by Sheriff Officer on 26 March 18. In terms of both Notices the date upon which vacant possession is required is 12 June 2018.
10. The Respondent remains in occupation of the property.

### **Reasons for decision**

11. Section 33(1) of the 1988 Act states, " Without prejudice to any right of the landlord under a short assure 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 ish:, (b) that tacit relocation is not operating; and (d) that the landlord (or, where there are joint landlord, any of them) has given to the tenant notice stating that he requires possession of the house"

12. The Legal Member is satisfied from the documents lodged with the application that the requirements of Section 33 have been met. Furthermore that Notice to the local authority in terms of Section 19A and Section 11 of the Homelessness etc (Scotland) Act 2003 has been given.
13. The Legal Member is accordingly satisfied that an order for possession of the property should be granted in favour of the Applicant.

### **Decision**

14. The Tribunal grants an order in favour of the Applicant against the Respondent 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.**

**Josephine Bonnar**

**Jósephine Bonnar, Legal Member**

**27 September 2018**