



**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/18/2459**

**Re: Property at 28A Forrester Park Avenue, Edinburgh, EH12 9AW (“the  
Property”)**

**Parties:**

**Mr Bruce Sim, 2B Wellflats Road, Edinburgh, EH29 9AZ (“the Applicant”)**

**Miss Estelle Montgomery, 28A Forrester Park Avenue, Edinburgh, EH12 9AW  
 (“the Respondent”)**

**Tribunal Members:**

**Colin Dunipace (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 in terms of Section 33  
of the Housing (Scotland) Act 1988**

**Background**

**By Application dated 11 September 2018 the Applicant sought an Order in  
terms of Section 33 of the Hosing (Scotland) Act 1988. The Application was  
accompanied by a copy of the Short Assured Tenancy agreement dated 1 April  
2016. This lease was in the name of Mr Bruce Sim as landlord and Ms Estelle  
Yvonne Montgomery and Mr Andrew Irvine Neill as tenants. By Assignation  
dated 12 December 2017 the lease ran solely in the name of Ms Estelle Yvonne  
Montgomery as tenant. The Application was also accompanied by forms AT5,  
a Notice to Quit dated 19 June 2018, and a section 11 Notice to the Local  
Authority.**

## Case Management Discussion

This matter called before me as a Case Management Discussion in George House, 126 George Street, Edinburgh on 10 December 2018. The Applicant was represented at this Discussion by Mr Kenneth Bell and Mr Ewan Foreman, both from 1Let Limited. The Respondent was not present nor represented at this Discussion. Given that I was satisfied that lawful service had been effected upon the Respondent I directed that the Case Management Discussion could proceed in her absence. For the Applicant Mr Bell indicated that the parties had entered into a Short Assured Tenancy in respect of the property on 1 April 2016. This Tenancy was originally in the name of Mr Bruce Sim as landlord and Ms Estelle Yvonne Montgomery and Mr Andrew Irvine Neill as tenants. By Assignment dated 12 December 2017 the lease ran solely in the name of Ms Estelle Yvonne Montgomery as tenant. The Applicant's representative Mr Bell indicated that the tenant had ceased paying rent sometime approximately 8 months ago, and that whilst a payment had been received from the tenant shortly thereafter, that no payments in respect of rent had been received for a period in excess of six months. Mr Bell advised that attempts had been made to engage with the Respondent, but that she had not responded to telephone calls, emails, letters or visits to the property. Mr Bell indicated that a Notice to Quit had been served upon the respondent by Sheriff Officer on 19 June 2018 seeking that the Respondent vacate the premises by 1 September 2018. The Applicant had received no response from the Respondent since that date, and that no further payments had been made in respect of rent.

## Decision

In the foregoing circumstances I was satisfied that the Applicant was entitled to the Order as craved in terms of 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.

Colin Dunipace

\_\_\_\_\_  
Legal Member

10/12/18  
\_\_\_\_\_  
Date