



**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/18/2510**

**Re: Property at 1F2 20 Lorne Street, Edinburgh, EH6 8QP (“the Property”)**

**Parties:**

**Places for People Scotland Limited, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)**

**Miss Agnieszka Ogrodowska, Mr Graeme Wallace, Flat 4, 5 Salamander Court,  
Edinburgh, EH6 7HY; 1F2 20 Lorne Street, Edinburgh, EH6 8QP (“the  
Respondent”)**

**Tribunal Members:**

**Anne Mathie (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for repossession of the Property be granted against the second respondent.**

- **Background**  
An application was made under Rule 66 for possession on termination of a short assured tenancy and received on 14 September 2018. Along with the application was lodged a copy of the tenancy agreement, AT5, Notice to Quit, Section 33 Notice, Sheriff Officers Execution of service relating to the Notices, Section 11 Form and email to Local Authority intimating the Section 11 Form. There was some difficulty obtaining title information in relation to the Property and the Tribunal wrote to the applicant’s agents on 12 October 2018 asking for a copy of the title deeds. On 15 October 2018 the Tribunal received an email from Registers of Scotland advising that the subjects were transferring from the Sasine Register to the plans based Land Register. They offered to provide various documents that would indicate title. A copy of the Title Deeds was received. On 12 December 2018 the Tribunal wrote to the applicant’s representative for further information on a number of matters. The Tribunal

questioned the fact that the AT5 was addressed to both tenants but appeared to only have been acknowledged receipt of by first respondent. The wording of the Section 33 Notice was queried as was the dates on the Notice to Quit and Section 33 Notices which appeared to be signed post service. A copy of a completed Section 11 Notice was requested and the reference to 'Miss A H Hunter's Trust' in the Notices was also queried. The applicant's agents responded to the requests for further information by email dated 21 December 2018. Intimation of the Case Management Discussion on 15 March 2019 was made on both respondents by Sheriff Officers on 25 February 2019. The respondents were advised that they required to submit any written representations by 12 March 2019. They were also advised that they were required to attend the Case Management Discussion and that the Tribunal may do anything as a Case Management Discussion which it may do at a hearing, including making a decision on the application which may involve making or refusing an eviction order or payment order. The respondents were advised that if they did not attend the Case Management Discussion this would not stop a decision or order being made by the Tribunal if the Tribunal considers that it has sufficient information before it to do so and the procedure has been fair.

The applicant was represented at the Case Management Discussion on 15 March 2019 by Nicola Caldwell of TC Young Solicitors. Both the respondents appeared on their own behalf. The Tribunal went through the applicant's papers with Ms Caldwell and asked for submissions in relation to the various points previously raised by the Tribunal. The respondents confirmed that they had not lodged any written representations. The first respondent advised that she didn't know why she was there as she had given notice and handed back the keys and moved out of the property approximately 6 months ago. She could find emails in this regard. Discussion took place about the fact that this was a Rule 66 case and, if all the requirements had been met, the Tribunal had no discretion and the eviction order would require to be granted. The second respondent confirmed he had an appointment with the Local Authority homelessness department on 4 April 2019. An adjournment took place of approximately half an hour to try and establish what the applicant's position was in relation to the first tenant's assertion that she had properly moved out of the Property some time ago. After the adjournment Ms Caldwell confirmed that the person she needed to speak to was not in the office today but moved for the eviction order to be granted against both tenants. The Tribunal declined to make an eviction order against 2 respondents when one of them had said they had legitimately removed from the Property 6 months ago. The first tenant advised that she had found some emails and the date that she had moved out was 11 October 2018. The Case Management Discussion would be required to be continued to allow Ms Caldwell to take her client's instructions. An email was received from the applicant's solicitors yesterday confirming that they wished to withdraw the eviction application against the first respondent and wanted to proceed with the application against the second respondent. A further Case Management Discussion took place today.

- The Case Management Discussion

Nicola Caldwell of TC Young Solicitors appeared on behalf of the applicant. The respondents were not present. The Tribunal was satisfied that the respondents were aware of today's hearing as they had been handed a note of the details at the last Case Management Discussion on 15 March 2019. Ms Caldwell confirmed that the applicant was now seeking the eviction/repossession Order solely against the second respondent. There was nothing further to add to the paperwork and submissions considered at the previous Case Management Discussion on 15 March 2019.

- **Findings in Fact**  
Both respondents occupied the Property under a short assured tenancy agreement from 16 May 2017 until 11 October 2018 when the first respondent vacated the Property.  
The second respondent continues to reside in the Property.  
The second respondent was served with a Section 33 Notice and a Notice to Quit requiring him to remove at the ish date of 17 April 2018.  
The applicants were entitled to the order sought for eviction/repossession.
- **Reasons for Decision**  
The Tribunal proceeded on the basis of the written documents which were before it along with written and verbal submissions from all parties (the second respondent having been present in person at the previous Case Management Discussion on 15 March 2019). There was nothing before the Tribunal challenging or disputing any of the evidence before it. All the requirements for repossession of a property in terms of Section 33 of the Housing (Scotland) Act 1988 were met.
- **Decision**  
The order for eviction/repossession 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.**

Anne Mathie  
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**Legal Member/Chair**

3 May 2019  
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**Date**