

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**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/18/2898**

**Re: Property at 49 Craigs Park, East Craigs, Edinburgh, EH12 8UL (“the  
Property”)**

**Parties:**

**Mr Ian Grant, co 9 10 and 11 Atholl Place, Edinburgh, EH3 8HP (“the  
Applicant”)**

**Miss Kerry Dawn Bell, 49 Craigs Park, East Craigs, Edinburgh, EH12 8UL (“the  
Respondent”)**

**Tribunal Member:**

**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 granted without a hearing  
and made an Order for Possession of the Property.**

**Background**

By application, received by the Tribunal on 28 October 2018, the Applicant sought and Order for Possession of the Property under Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”).

The application was accompanied by a copy of a Short Assured Tenancy agreement between the Parties, commencing on 8 April 2013 and terminating on 8 October 2018 and, if not terminated on that date, continuing on a month to month basis until terminated by two months’ written notice given by either party to the other.

The application was also accompanied by copies of a Form AT5 Notice dated 19 March 2013, a Notice to Quit and a Section 33 Notice, both dated 19 June 2018 and both requiring the Respondent to vacate the Property by 8 September 2018 and evidence of delivery of the Notice to Quit and Section 33 Notice, namely a recorded delivery slip dated 20 June 2018 and Royal Mail proof of “Signed for” delivery dated 21 June 2018.

On 15 January 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 4 February 2019. The Respondent made no written representations to the Tribunal.

### **The Case Management Discussion**

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the afternoon of 6 February 2019. The Applicant was present and was represented by Kirstie Donnelly of Bannatyne, Kirkwood, France & Co, solicitors, Glasgow. The Respondent was not present or represented.

The Applicant's representative asked the Tribunal to grant the application without a hearing

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

The Tribunal decided that it had before it all the documentation and information it required and that it would make a decision on the application without a hearing.

Section 33 of the 1988 Act states that the Tribunal shall make an Order for Possession of a house let on a short assured tenancy if it is satisfied that the short assured tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence and that the landlord has given to the tenant notice that he requires possession of the house.

The Tribunal was satisfied from the evidence before it that the lease was a Short Assured Tenancy, that it had reached its end, that, as a result of service of the Notice to Quit, tacit relocation was not operating, that there was no further contractual tenancy in existence and that the Notice required under Section 33 of the 1988 Act had been given. Accordingly, the requirements of Section 33 had been met and the Tribunal was bound to grant the Order sought.

### **Decision**

The Tribunal determined that the application should be granted without a hearing and made 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.**

George Clark

**Legal Member/Chair**

7 February 2019  
**Date**