



**Decision 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/23/1178

**Re: Property at 1 Whitehorse Buildings, Balmedie, Aberdeenshire, AB23 8XR
("the Property")**

Parties:

Mr David Needes, 136 Auchinyell Road, Aberdeen, AB10 7EL ("the Applicant")

**Ms Michelle Reay (maiden Ryrie), 1 Whitehorse Buildings, Balmedie,
Aberdeenshire, AB23 8XR ("the Respondent")**

Tribunal Members:

Gabrielle Miller (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Applicant and the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that the application should be dismissed.**

Background

1. This is an application in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules"). The Application was dated 9th March 2023. The Applicant is seeking an order for recovery of possession in terms of section 33 of the Act.
2. On 1st June 2023, all parties were written to with the date for the Case Management Discussion ("CMD") of 6th July 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 22nd June 2023.
3. On 2nd June 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent personally. This was evidenced by Certificate of Intimation dated 2nd June 2023.

Case Management Discussion

4. A CMD was held on 6th July 2023 at 2pm by teleconferencing. Neither the Applicant nor the Respondent were present or represented. There was no explanation why the Applicant, in particular, was not present or represented. At on or around 10.10 am the Tribunal Clerk contacted the Applicant's representative to confirm if they wished to proceed with the application. They said that they had not been aware of the CMD and could not attend. They told the Clerk that the Respondent had written to them to say that she is to move out on 26th July 2023. They were satisfied that she is to leave the Property then. A postponement request was not made.
5. The Tribunal dismissed the case as it was not clear that the Applicant wished to rely on the matters within the case.

Decision

6. The application was dismissed as it was not clear that the Applicant wished to rely on the case proceeding.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Gabrielle Miller

6th July 2023

Legal Member/Chair

Date

